RECEIVED
Sep 30 2020
SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM SPARTANBURG COUNTY
Court of Common Pleas

The Honorable Jean H. Toal, Circuit Court Judge

Appellate Case No. 2019-002126

Jerry Howard Crawford, individually and as Personal Representative of the Estate of Evelyn Kay Crawford, Respondent,

v.

Celanese Corporation; Aurora Pump Company; Carrier Corporation; CNA Holdings, LLC f/k/a Hoechst Celanese Corporation; Covil Corporation; Crane Co.; Daniel International Corporation f/k/a/ Daniel Construction Company, Inc.; Flowserve Corporation, individually and as successor-in-interest to Anchor/Darling Valve Company, and individually as successor-in-interest to Durco Pumps; Flowserve, US Inc.; Fluor Constructors International, f/k/a Fluor Corporation; Fluor Constructors, International, Inc.; Fluor Daniel Services Corporation; Fluor Enterprises, Inc.; Ford Motor Company; Genuine Parts Company, d/b/a Rayloc (a/k/a NAPA); The Goodyear Tire & Rubber Company; Goulds Pumps, Inc.; Grinnell, LLC f/k/a Grinnell Corp., f/k/a ITT Grinnell Corp.; Honeywell International, Inc., f/k/a Allied-Products Liability Signal, Inc., sued as successor-in-interest to Bendix Corporation; Ingersoll-Rand Company; John Crane, Inc.; Metropolitan Life Insurance Company, a wholly owned subsidiary of MetLife Inc.; National Automotive Parts Association (NAPA); Parker-Hannifin Corporation; Pneumo Abex, LLC, successor-in-interest to Abex Corporation; Spirax Sarco, Inc.; SPX Cooling Technologies, Inc., individually and as successor-in-interest to Marley Cooling Towers, Co.; Standard Motor Products, Inc., sued as successor-in-interest to EIS Automotive; United States Fidelity & Guaranty Company; and The William Powell Company, Defendants,

Of which, Covil Corporation is the Appellant.

RECORD ON APPEAL

Vol 1 of 8

.

Theile B. McVey
John D. Kassel
KASSEL McVEY ATTORNEYS AT LAW
1330 Laurel Street
Columbia, South Carolina 29202
(803) 256-4242
tmcvey@kassellaw.com
jkassel@kassellaw.com

Jonathan M. Holder
Ka'Leya Hardin
DEAN OMAR BRANHAM SHIRLEY, LLP
302 N. Market Street, Ste. 300
Dallas, Texas 75202
(214) 722-5990
jholder@dobslegal.com
khardin@dobslegal.com

Attorneys for Respondent Jerry Howard Crawford, individually and as Personal Representative of the Estate of Evelyn Kay Crawford

Elbert Lin*
Counsel of Record
Hunton Andrews Kurth LLP
951 East Byrd Street, East Tower
Richmond, Virginia 23219
(804) 788-8200
Erica N. Peterson**
2200 Pennsylvania Avenue, NW, Suite 900
Washington, D.C. 20037
(202) 955-1500
elin@HuntonAK.com
epeterson@HuntonAK.com

*Admitted pro hac vice
**Not admitted in DC. Work supervised by members of the DC bar. Admitted pro hac vice

Ashley K. Brathwaite
Ellis & Winters LLP
4131 Parklake Avenue, Suite 400
Raleigh, North Carolina 29612
(919) 573-1297
ashley.brathwaite@elliswinters.com

Counsel for Appellant Covil Corporation

RECORD ON APPEAL INDEX

Orders

Order/Judgment/Verdict Form issued July 19, 2018 1

Order/Judgment granting new trial entered October 22, 2018 3

Order/Judgment on handling data tape issues August 22, 2019 12

Order granting relief under Rule 60(b) entered November 25, 2019 15

Pleadings

Summons and Complaint, filed on December 4, 2017 23

Answer of Covil Corporation to the Complaint, filed on January 5, 2018 72

Plaintiffs' Motion for Sanctions Against Covil Corporation for Spoliation of Evidence and Discovery Abuse filed on July 10, 2018 91

Covil Corporation's Reply to Plaintiff's Motion for Sanctions, filed on July 10, 2018 526

Plaintiff's Motion for Judgment Notwithstanding the Verdict and for New Trial Absolute filed on July 30, 2018 529

Plaintiffs' Memorandum in Support of Judgment Notwithstanding the Verdict and for New Trial Absolute filed on September 25, 2018 537

Plaintiff's Rule 60(b) Motion, filed on July 16, 2019 1597

Covil Corporation's Brief in Opposition to Rule 60(b) Motion filed on November 11, 2019 1603

Covil Corporation's Notice of Appeal, filed on December 31, 2019 1713

Transcripts

Transcript of Trial, July 16, 2018, through July 19, 2018 1730

Hearing Transcript October 10, 2018 2370

Hearing Transcript July 11, 2019 2384

Transcript of Rule 60(b) Motion Hearing on November 12, 2019 2522

Deposition of Palmer Covil taken July 14, 1977 2540

Deposition of Jerry Crawford taken February 6, 2018 2745

Deposition of Don Buck taken June 19, 2018 3176

Deposition of Bruce Bowyer taken June 27, 2018 3253

Deposition of Harley Neelands taken December 8, 2016 3307

Deposition of Dwayne Waters taken October 16, 2017 3638

STATE OF SOUTH CAROLINA COUNTY OF SPARTANBURG	)	IN THE COURT OF COMMON PLEAS FOR THE SEVENTH JUDICIAL CIRCUIT
Jerry Howard Crawford and the Estate of Evelyn Kay Crawford, Plaintiffs, v. Covil Corporation, Defendants.	)	Civil Action No. 2017-CP-42-04429 **VERDICT FORM**

NEGLIGENCE

1. We the Jury find that Covil Corporation was negligent, and its negligence was a proximate cause of Jerry Crawford's injury and damages:

____YES ✓ NO

STRICT LIABILITY

2. We the Jury find Covil Corporation is strictly liable for selling products that were a proximate cause of Jerry Crawford's injury and damages:

____YES ✓ NO

IMPLIED WARRANTY

3. We the Jury find Covil Corporation breached the Implied Warranty in selling its products and its breach was a proximate cause of Jerry Crawford's injury and damages:

____YES ✓ NO

4. If you answered YES to any of Questions 1, 2, or 3, please state the amount of actual damages that have been proven by the greater weight of the evidence.

   $ _____ Jerry Crawford's actual damages

   $ _____ actual damages for Mrs. Crawford's Loss of Consortium

5. If you answered YES to Questions 1, 2, or 3, please answer Question 5. We, the Jury, by unanimous vote, find by clear and convincing evidence that the conduct of Covil Corporation was willful, wanton, or reckless:

   _____Yes _____ No

Sarah Burdine
Juror Foreperson

7/19/18
Date

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
	)	
	)	
JERRY HOWARD CRAWFORD, Individually and as Personal Representative of the Estate of **EVELYN KAY CRAWFORD**	)	**C/A NO. 2017-CP-42-04429**
	)	
Plaintiff,	)	**ORDER DENYING IN PART AND GRANTING IN PART PLAINTIFF'S MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT AND FOR NEW TRIAL ABSOLUTE**
v.	)	
	)	
CELANESE CORPORATION, et al.,	)	
	)	
Defendants.	)	
	)	

In this asbestos case, Plaintiff Jerry Howard Crawford moves for relief from the jury's July 19, 2018 verdict in favor of Covil Corporation ("Covil"). For the reasons set forth below, Plaintiff's motion for judgment notwithstanding the verdict is DENIED, but Plaintiff's motion for new trial absolute is GRANTED.

I. The Evidence at Trial

Plaintiff Jerry Crawford worked around asbestos at the Hoechst Fiber (Celanese) plant in Spartanburg, South Carolina, from 1970 to 1974. He worked at three locations within the plant: the poly building, the continuous line building and the warehouse. Daniel Construction constructed an addition to the continuous line building during the period Mr. Crawford worked there. Daniel installed insulation on the new lines in this area. Mr. Crawford testified that he saw them cut insulation for steam pipes, which created "a good bit of dust." Daniel Construction also repaired the insulation in the poly building. Don Buck, representative for Daniel Construction, testified that Daniel Construction was at the facility every year between 1970 and 1974.

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Harley Neelands worked as an insulator for Daniel Construction and insulated pipe at the Celanese plant. Daniel used Kaylo half-moon insulation, "mud" insulation, and Kaylo block insulation. This work generated so much dust that their clothes were covered with white chalky dust at the end of each day.

Mr. Neelands testified that Covil supplied the insulation used at the Celanese plant. This is confirmed by a Daniel vendor list from the Celanese project that lists Covil as a supplier on that project. Plaintiff's Ex. 822.4.

Covil, through its representative Robert Glenn, has admitted that it sold Kaylo brand asbestos-containing insulation. Covil sold insulation to industrial contractors. Covil agreed that Daniel Construction was one of its largest customers. Covil agreed this relationship with Daniel Construction began in the early 1960s. Daniel Construction, through its representative, acknowledged that it did business with Covil as an insulation supplier and insulation subcontractor. Dwaine Waters, a former Covil employee, testified that if Daniel had the maintenance contract, Covil did the insulation work.

When Mr. Glenn was asked about his search for documents reflecting Covil's sales to the Spartanburg Celanese plant, he testified that he performed a word search of Covil's documents and found nothing regarding that plant. He also stated that a fire occurred in 1973, thereby causing Covil to lose all sales information from 1973 and beforehand. This was contradicted by a Covil employee, Machen Carpenter, who testified that Covil's office complex was protected by a fire wall and the office complex was not destroyed by the 1973 fire. Covil's documentation was kept in a vault which would not have been destroyed by the 1973 fire either. Mr. Carpenter testified that the documents were likely destroyed by means other than the fire.

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Covil pointed to the lack of record evidence of its involvement at Celanese. Covil maintained that its records generated after the May 1973 fire did not establish any work by Covil at Celanese. Covil also relied on testimony that Celanese did not have a record of Covil providing any services to the plant. Despite Daniel's vendor list that included Covil, Covil also contended that Daniel's records did not show Covil as an insulation supplier on the Celanese project.

The evidence established that the insulation supplied by Covil to Celanese contained asbestos. Bruce Bowyer testified on behalf of CNA Holdings, the entity now responsible for Celanese. He said the plant specifications called for amosite asbestos-containing insulation. Mr. Bowyer also referred to a plant survey conducted in 1995 which shows the quantity of asbestos-containing insulation removed from various areas of the plant. the area where Mr. Crawford worked, over 77,749 lineal feet of insulation was removed and 90% of that insulation contained asbestos. Further, Covil, through its corporate representative Robert Glenn, admitted that Kaylo insulation contained asbestos during the relevant time period.

Covil admitted that it knew as of 1965 that asbestos was hazardous and that exposure to asbestos could be fatal. Covil first saw warning labels on asbestos-containing products in 1968. Nevertheless, Covil continued to sell asbestos-containing insulation until at least 1973 and an invoice admitted into evidence showed that it sold asbestos-containing Thermobestos until at least 1974.

Covil did nothing to protect end users and bystanders like Mr. Crawford. Covil never had a research department, a medical director, or an industrial hygienist. Covil never placed a warning on its boxes of asbestos-containing products. Even though Covil told its own employees to wear respirators since the 1950s, it never put that information on any of the boxes that it sold. Mr. Glenn testified that Covil made a "business decision" to not warn about the asbestos-containing products

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

that it sold.

Plaintiff introduced causation testimony from two expert witnesses—Dr. Arnold Brody and Dr. John Maddox. Dr. Arnold Brody, an expert qualified in the areas of cell biology and experimental pathology, testified about how asbestos gets into the body and how it causes disease. Dr. Brody explained that asbestos causes cancer in that it either displaces genes necessary for the normal distribution of chromosomes or it damages DNA. He was not cross-examined by Covil.

Dr. John Maddox is a pathologist who was qualified to testify as an expert in the diagnosis and causation of asbestos-related diseases. Dr. Maddox testified that Mr. Crawford has a malignant mesothelioma of the biphasic type of his right pleura. Mr. Crawford's mesothelioma was asbestos-related. Assuming all of the relevant exposure facts about Mr. Crawford's work around asbestos-containing insulation supplied by Covil between 1970 and 1974, Dr. Maddox opined that this exposure was a substantial contributing cause in development of Mr. Crawford's mesothelioma. In his expert opinion, Mr. Crawford's mesothelioma will cause his death.

There was testimony about the medical treatments Mr. Crawford has endured, including chemotherapy and surgery to remove the lining of his lung. Mesothelioma is a very painful disease because of the accumulation of fluid in the lungs and the inability to breath. Weight loss and loss of appetite is common, and mesothelioma patients experience "air hunger" when struggling to breathe. Mr. Crawford's physical health has already declined significantly and he knows it is very unlikely he will survive this cancer. He was physically unable to attend trial and his testimony was presented via videotaped deposition taken in early February 2018. Dr. Maddox testified that, absent his cancer, Mr. Crawford's life expectancy, at age 72, would have been an additional 13 years.

II.Ruling on Motion for Judgment Notwithstanding the Verdict

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

On a motion for a directed verdict or a judgment notwithstanding the verdict (JNOV), this Court views the evidence and all reasonable inferences in the light most favorable to the nonmoving party. *See RFT Mgmt. Co. v. Tinsley & Adams L.L.P.*, 399 S.C. 322, 331-32, 732 S.E.2d 166, 171 (2012). A motion for a JNOV "requires a court to determine the sufficiency of the evidence." *Rogers v. Norfolk Southern Corp.*, 356 S.C. 85, 81, 588 S.E.2d 87, 89 (2003). The Court must deny a motion for a directed verdict or JNOV if the evidence yields more than one reasonable inference or its inference is in doubt. *See Strange v. S. C. Dep't of Highways & Pub. Transp.*, 314 S.C. 427, 429, 445 S.E.2d 439, 440 (1994). "In deciding such motions, neither the trial court nor the appellate court has the authority to decide credibility issues or to resolve conflicts in the testimony or the evidence." *RFT Management Co. LLC v. Tinsley & Adams LLP*, 732 S.E.2d 166, 171 (S.C. 2012). JNOV can be granted only "if no reasonable jury could have reached the challenged verdict." *Gastineau v. Murphy*, 331 S.C. 565, 568, 503 S.E.2d 712, 713 (1998).

For the reasons set forth at the hearing, the Court denies JNOV.

III. Ruling on Motion for New Trial Pursuant to the Thirteenth Juror Doctrine

South Carolina's thirteenth juror doctrine is a well-established standard for granting a new trial. *See Folkens v. Hunt*, 300 S.C. 251, 387 S.E.2d 265 (1990); *Sorin Equipment Co., Inc. v. The Firm, Inc.*, 323 S.C. 359, 474 S.E.2d 819 (Ct. App. 1996). "Under the 'thirteenth juror doctrine,' a trial judge may grant a new trial absolute when he finds the evidence does not justify the verdict." *Haselden v. Davis*, 341 S.C. 486, 534 S.E.2d 295 (Ct. App. 2000), *aff'd*, 353 S.C. 481, 506, 579 S.E.2d 293, 306 (2003), quoting, *Vinson v. Hartley*, 324 S.C. 389, 402, 477 S.E.2d 715, 722 (Ct. App. 1996). Stated differently, a trial judge may grant a new trial under the thirteenth juror doctrine if the judge determines the verdict "is contrary to the fair preponderance of the evidence." *Dent v. Redd*, 270 S.C. 585, 586, 243 S.E.2d 460, 460 (1978); *Vinson v. Hartley*, 324 S.C. 389, 404, 477

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

S.E.2d 715 (Ct. App. 1996) ("Traditionally, in South Carolina, circuit court judges have the authority to grant a new trial upon the judge's finding that justice has not prevailed."). Unlike a motion for directed verdict, the trial judge weighs the evidence under the thirteenth juror doctrine and need not view the evidence in the light most favorable to the opposing party. *McEntire v. Mooregard Exterminating Servs., Inc*., 353 S.C. 629, 578 S.E.2d 746 (Ct. App. 2003); see *also Parker v. Evening Post Publ'g Co*., 317 S.C. 236, 247, 452 S.E.2d 640, 646 (Ct. App. 1994) (stating the trial court may take its own view of the evidence). Moreover, the question of whether to grant a new trial upon the facts is one addressed to the discretion of the trial judge. *South Carolina State Highway Dep't v. Clarkson*, 267 S.C. 121, 126, 226 S.E.2d 696, 697 (1976).

"South Carolina's thirteenth juror doctrine is so named because it entitles the trial judge to sit, in essence, as the thirteenth juror when he finds 'the evidence does not justify the verdict,' and then to grant a new trial based solely 'upon the facts.'" *Norton v. Norfolk Southern Ry. Co*., 350 S.C. 473, 567 S.E.2d 851 (2002) (quoting, *Folkens v. Hunt*, 300 S.C. 251, 254, 387 S.E.2d 265, 267 (1990)). In fact, as the "thirteenth juror," the trial judge can hang the jury by refusing to agree to the jury's otherwise unanimous verdict. *Id*. As the South Carolina Supreme Court explained in *Folkens*:

> The effect is the same as if the jury failed to reach a verdict . . . .When a jury fails to reach a verdict, a new trial is ordered. Neither judge nor the jury is required to give reasons for this outcome. Similarly, because the result of the 'thirteenth juror' vote by the judge is a new trial rather than an adjustment to the verdict, no purpose would be served by requiring the trial judge to make factual findings.

Id.

With this standard in mind, the Court finds that the jury's verdict in favor of Covil is unsupported by the evidence presented during trial. Plaintiff presented overwhelming evidence to support each of his claims against Covil. Plaintiff's evidence conclusively established that Jerry

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Crawford worked at the Spartanburg Celanese facility from 1970 to 1974. While working at Celanese, Mr. Crawford was exposed to asbestos-containing insulation, which Plaintiff proved was supplied by Covil. Testimony from Plaintiff's medical expert, Dr. Maddox, confirmed that Mr. Crawford had mesothelioma and that his exposure to asbestos from Covil-supplied insulation was a substantial factor in causing his disease. Covil failed to present any evidence to the contrary. Despite receiving medical treatment, Mr. Crawford is expected to die from mesothelioma.

Dr. Maddox also testified that it was known, at least by 1967, that some pipe insulation contained asbestos and that asbestos was hazardous. Covil failed to present any testimony challenging this evidence. In fact, Covil admitted that it received information regarding the hazards of asbestos from numerous sources beginning in the 1960s and by 1965 was aware that exposure to asbestos could be fatal. Despite this knowledge, Covil failed to take any measures to warn its customers or users of the hazards associated with the asbestos-containing products that it supplied. Covil continued to sell asbestos-containing insulation until at least 1974.

Covil's defense was that it did not supply the thermal insulation installed at Celanese, pointing only to the absence of sales invoices or records of sales to that facility. It was undisputed that Covil's sales records had been destroyed, however, and Mr. Carpenter's testimony supports the conclusion that the destruction was deliberate instead of the result of a fire, as Covil claims. The Court rejects Covil's contention that Daniel's records did not show Covil as the insulation supplier on the Celanese project: Plaintiffs admitted a Daniel vendor list with Covil's name on it, which confirmed Mr. Neelands's testimony that Covil supplied the insulation installed by Daniel at Celanese. Covil failed to present any evidence to contradict Plaintiff's evidence that Covil was the supplier of the asbestos-containing thermal insulation installed at Celanese. Moreover, Covil failed to present any evidence to contradict any of the testimony that Covil was one of Daniel

Corporation's primary insulation suppliers, including from 1970 to 1974 when Daniel installed insulation at Celanese.

Given the overwhelming evidence against Covil on the issues of Mr. Crawford's exposure to Covil-supplied insulation, Covil's knowledge of the danger and failure to warn, and Mr. Crawford's injury and damages, the Court finds that the jury's verdict for Covil was contrary to the fair preponderance of the evidence. The Court exercises its discretion to act as the thirteenth juror, and, finding that the evidence does not justify the jury's verdict, the Court is persuaded that Plaintiff is entitled to a new trial.

Conclusion

The Court DENIES Plaintiff's Motion for Judgment Notwithstanding the Verdict but GRANTS Plaintiff's Motion for New Trial pursuant to the Thirteenth Juror Doctrine.

IT IS SO ORDERED.

Jean Hoefer Toal, Chief Justice of the South Carolina Supreme Court, Retired, Acting as Circuit Court Judge

October _____, 2018

Spartanburg, South Carolina.

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Oct 22 9:17 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Spartanburg Common Pleas

Case Caption: Jerry Howard Crawford , plaintiff, et al VS Celanese Corporation , defendant, et al

Case Number: 2017CP4204429

Type: Order/Other

IT IS SO ORDERED.

s/ Jean H. Toal #2758

ELECTRONICALLY FILED - 2019 Aug 22 12:22 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4000076

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF RICHLAND	)	FOR THE FIFTH JUDICIAL CIRCUIT
	)	
CHARLES T. HOPPER and REBECCA HOPPER,	)	C/A No. 2019-CP-40-00076
	)	
Plaintiffs,	)	
v.	)	**ORDER ON HANDLING OF DATA TAPE PRODUCED BY MARK WALL**
	)	
AIR & LIQUID SYSTEMS CORPORATION, et al.,	)	
	)	
Defendants.	)	
	)	

On July 11, 2019 during a hearing involving the Receiver for Covil Corporation, it was revealed that a tape purporting to contain data belonging to Covil Corporation (the "Data Tape") has been in the possession of Covil's lawyers[1] for decades and has not been disclosed or produced until now.

The Court took possession of the Data Tape at the hearing on July 11, 2019. The Court further ordered that the parties confer and submit an order for the handling of the Data Tape.

The parties have conferred and agreed that the Data Tape will be remitted to the Receiver, Peter D. Protopapas, and that the Receiver and his counsel, in consultation with Dean Omar Branham Shirley, LLP ("DOBS"), shall retain a forensic specialist to examine the tape, determine if data is contained on the tape and, if so, how to retrieve and retrieve the data. If there is no data on the tape, the forensic specialist will determine if the tape has been altered or damaged and, to

[1] Prior to 2018, Covil's lawyers were Gallivan White & Boyd, LLP ("Gallivan"). Subsequently, Wall, Templeton & Haldrup, P.A. ("Wall") was retained purportedly to represent Covil. It appears that as part of that transition, the tape was delivered from Gallivan to Wall The Court notes, not without considerable concern, that Covil has been the subject of numerous orders on motions to compel and that this is the first time the Court and other counsel have learned of the existence of this tape.

the extent possible, whether the damage was intentional, inadvertent or a function of age. The cost incurred for the work of the forensic specialist will be split half and half between the Receiver and DOBS, attorneys for the Plaintiffs. Any documents recovered by the vendor will be delivered to the Court, Covil Corporation through its Receiver, Covil Corporation's counsel, and no other party. Covil Corporation will have ten days to provide to the Court and all parties a privilege log listing a description of any document it claims is privileged and all unprivileged documents recovered from the tape.

Upon the execution of this Order the Receiver may obtain the tape from chambers.

IT IS SO ORDERED.

_____

Jean Toal, Chief Justice, Ret.

ELECTRONICALLY FILED - 2019 Aug 22 12:22 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4000076

ELECTRONICALLY FILED - 2019 Aug 22 12:22 PM - RICHLAND - COMMON PLEAS - CASE#2019CP4000076

Richland Common Pleas

Case Caption: Charles T Hopper , plaintiff, et al vs Air & Liquid Systems Corporation , defendant, et al

Case Number: 2019CP4000076

Type: Order/Other

IT IS SO ORDERED.

s/ Jean H. Toal #2758

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
JERRY HOWARD CRAWFORD, Individually and as Personal Representative of the Estate of **EVELYN KAY CRAWFORD**	)	**C/A NO. 2017-CP-42-04429**
Plaintiff,	)	**ORDER GRANTING PLAINTIFF'S MOTION FOR NEW TRIAL PURUANT TO RULE 60(b)(2) and 60(b)(3)**
v.	)	
CELANESE CORPORATION, et al.,	)	
Defendants.	)	

Plaintiff Jerry Howard Crawford, Individually and as Personal Representative of the Estate of Evelyn Kay Crawford, by and through his undersigned counsel, moved before the Court for relief from judgment pursuant to Rule 60(b)(2) and (3) of the South Carolina Rules of Civil Procedure. For the reasons stated below, Plaintiff's motion is GRANTED.

Plaintiff commenced this lawsuit on December 4, 2017, via a Summons and Complaint filed in the Spartanburg County Court of Common Pleas. Therein, Plaintiff sought recovery for the losses suffered as the result of Jerry Crawford's repeated exposures to asbestos while working at the Hoechst Celanese facility in Spartanburg, South Carolina from 1970 to 1974. As a result of his exposure to asbestos, Jerry Crawford was diagnosed with mesothelioma in or about November of 2017. At the time of trial, Covil Corporation was the only remaining defendant in this matter, and, against Covil, Plaintiff had three discrete causes of action: negligence, strict liability, and breach of implied warranty.

The trial of this matter began on July 16, 2018. Despite the significant evidence that Jerry Crawford was exposed to asbestos insulation supplied and installed by Covil when he worked at

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

the Celanese plant in Spartanburg in the 1970s, that this exposure was a substantial factor in causing his mesothelioma, and that Covil had knowingly sold asbestos products without a warning, the jury returned a defense verdict. (TT 7/19, at 553:6-554:2; Verdict Form.)

At trial, Covil did not deny that it generally sold and installed asbestos insulation, but maintained that it lost its sales invoices in a fire in 1973. (TT 7/17, at 307:11-14.) In addition, Covil's corporate representative, Robert Glenn, testified that he had reviewed available records and found no documents reflecting that Covil supplied insulation to Celanese from 1970 to 1974 or did work at that facility during that time frame, or that Covil and Daniel Construction worked together between 1970 and 1974. (TT 7/17, at 305:23-306:12.). This purported lack of documents formed the foundation for Covil's defense at the trial of this case.

The lack of documentary evidence was contradicted by the testimony of Harley Neelands, a former employee of Daniel Construction, that while he was working at the Celanese Spartanburg plant, Daniel was installing insulation that it had purchased from Covil Corporation. (Neelands Dep., p. 49, ¶ 57.)

After trial, on October 19, 2018, this Court granted Plaintiff's motion for new trial pursuant to the Thirteenth Juror Doctrine but denied Plaintiff's motion for judgment notwithstanding the verdict. Covil subsequently appealed the Court's decision. The appeal has been briefed and is pending before the South Carolina Court of Appeals.

New evidence has now come to light that Covil has a data tape in its possession, possibly containing documents relevant to this case, that it never disclosed to Plaintiff in this litigation. The existence of this new evidence was revealed at a hearing against Covil in other asbestos cases pending before this Court. At the hearing on July 11, 2019, Mark Wall's[1] counsel informed the

[1] Mark Wall of Wall Templeton served as counsel for Covil during the trial of this case. He no longer represents Covil Corporation.

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Court and the parties that it has a data tape dating back to the 1990s. This data tape is apparently the last back up of the data on the Covil computers before the company stopped doing business in 1991.

Covil's attorney, who represented Covil ~~for decades~~ in asbestos litigation from the mid-1970s until April of 2018, took possession of the data tape in 1991.[2] Covil acknowledged at the hearing that neither Covil, its' attorneys nor its' insurance carriers ever attempted to download the data from the back up tape. Even more surprising is that the existence of the data tape has never been disclosed to any plaintiff in the hundreds of asbestos lawsuits in which Covil has been sued.

Covil attempts to excuse the inexcusable by arguing that the plaintiffs in asbestos litigation in years past could have possibly found the data tape if only they had looked hard enough for it. It is undisputed that in the case at issue here, the existence of the data tape was never disclosed either formally in discovery responses or informally. In fact, at the trial of this case, when ~~the~~ counsel for Covil argued against a spoliation charge, counsel stated:

> As I mentioned in my argument earlier, we had produced 25,000 pages worth of documents approximately in this case. It has ben 27 years since this business ceased in 1991, and, frankly, we understand that the records have been kept in prior counsel's office, and we are—understand everything has been produced that we have. In addition to that, there is no additional testimony or evidence that portions of records were destroyed by Covil at any point besides the fire, which we contend was not a deliberate or intentional act on behalf of Covil.

(TT 7/16/18).

Thus, Covil announced, in open Court, that all the documents had been produced in this case. That was clearly not the case. It is undisputed that Covil never gave the data tape to the Plaintiff or his counsel or even listed the data tape in its discovery responses.

[2] Daniel White of Gallivan White & Boyd represented Covil for over 30 years and took possession of the data tape in 1991.

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Following the disclosure to the parties in July of 2019, nearly a year after the trial in this case, of the existence of the data tape, the Court ordered disclosure of the tape. Plaintiff and Covil jointly hired an independent forensic computer expert to determine what data, if any, may exist on the tape. The expert has had the data tape since August of 2019. To date, the expert has determined that tape contains data and that the data does not appear to have been intentionally destroyed.

However, the expert has not yet been able to find the necessary programs it will take to read and download the data on the tape. It is unclear if the expert will ever locate the necessary programs to retrieve any data or how long it may take. It is equally clear that this data could and should have been downloaded in 1991 in the midst of a sea of asbestos litigation.

Relief is warranted under Rule 60(b)(2)

Rule 60(b)(2), SCRCP, states that "On motion and upon such terms as are just, the court may relieve a party or his legal representative from a final judgment, order, or proceeding for the following reasons: . . . (2) newly discovered evidence which by due diligence could not have been discovered in time to move for a new trial under Rule 59(b)." The term "newly discovered evidence" is a term of art and refers to evidence which existed at the time of the final judgment, order, or proceeding but which had not been discovered by the proponent of the Rule 60(b)(2) motion. *E.g.*, 11 Charles Alan Wright et al., Federal Practice and Procedure § 2859 (Supp. 2007) ("Under [Rule 60(b)(2)], the evidence must have been in existence at the time of the trial...."). "Whether to grant or deny a motion under Rule 60(b) lies within the sound discretion of the judge." *Raby Const., L.L.P. v. Orr*, 358 S.C. 10, 17-18, 594 S.E.2d 478, 482 (2004).

The South Carolina Court of Appeals has stated that to receive a new trial based on newly discovered evidence, the moving party must establish that the newly discovered evidence: "(1)

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

will probably change the result if a new trial is granted; (2) has been discovered since the trial; (3) could not have been discovered before the trial; (4) is material to the issue; and (5) is not merely cumulative or impeaching." *Lanier v. Lanier*, 364 S.C. 211, 612 S.E.2d 456 (Ct. App. 2015).

The Covil data tape constitutes newly discovered evidence under Rule 60(b)(2). According to the information provided by Covil's counsel, this data tape has been in existence since the 1990s and has been passed among the various counsel that have represented Covil in asbestos litigation. This evidence was thus in existence at the time of the jury's verdict in this case. The evidence was discovered in another hearing nearly a year after the trial of this case.

Further, Plaintiff could not have discovered this evidence with due diligence. Plaintiff sought to discover all Covil documents relevant to its sales and installation of asbestos insulation at Celanese Spartanburg, but Covil withheld the data tape and the documents on the tape. Plaintiff could not possibly have discovered information and documents that were intentionally withheld by Covil in violation of its discovery obligations. Finally, what is contained on this tape is unknown to the parties and the Court because of the inaction of Covil, its lawyers and its carriers in failing to download the data. I find it probable that the evidence contained on the tape is not likely to be merely cumulative or impeaching.

Relief is warranted under Rule 60(b)(3)

Rule 60(b) also provides that the Court may relieve a party from a final judgment, order, or proceeding for "fraud, misrepresentation, or other misconduct of an adverse party." SCRCP 60(b)(3). Relief under 60(b)(3) can generally be granted only for extrinsic fraud that prevents a party from presenting its case. *Chewning v. Ford Motor Co.*, 354 S.C. 72, 81, 579 S.E.2d 605, 610 (2003). Extrinsic fraud is "fraud that induces a person not to present a case or deprives a person of the opportunity to be heard. Relief is granted for extrinsic fraud on the theory that because the

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

fraud prevented a party from fully exhibiting and trying his case, there has never been a real contest before the court on the subject matter of the action." *Hilton Head Ctr. of South Carolina v. Public Serv. Comm'n*, 294 S.C. 9, 11, 362 S.E.2d 176, 177 (1987).

The Supreme Court has held that concealment of documents by an attorney is extrinsic fraud in that "the attorney, being an officer of the court, prevents the opposing party from presenting his case." *Chewning*, 354 S.C. at 82 (citing *In the Matter of Goodwin*, 279 S.C. 274, 305 S.E.2d 578 (1983); *Bankers Trust Co. v. Braten*, 317 S.C. 547, 455 S.E.2d 199 (Ct. App. 1995)).

Concealment of documents is also fraud upon the court. *Chewning*, 354 S.C. at 83. "[F]raud upon the court is a narrow and invidious species of fraud that 'subvert[s] the integrity of the Court itself, or is a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication.'" *Perry v. Heirs at Law of Gadsden*, 357 S.C. 42, 47, 590 S.E.2d 502, 504-05 (Ct. App. 2003). In order to show fraud upon the court, a plaintiff must show "that one has acted with an intent to deceive or defraud the court." *Chewning*, 354. S.C. at 78. "Attorney fraud calls into question the integrity of the judiciary and erodes public confidence in the fairness of our system of justice. Accordingly, where an attorney embarks on a scheme to either suborn perjury or intentionally conceal documents, extrinsic fraud constituting a fraud upon the court occurs." *Id.* at 83–84.

Here, Covil represented to counsel, this Court, and to the jury that every document had been produced and any missing documents had been lost in a fire. It is important to note that Covil does not and has not existed since 1993. It has been nothing more than a shell operated, controlled and abused by its insurers and those who purport to be attorneys for Covil. In finding in Covil's

favor, the jury apparently credited this assertion and faulted Plaintiff for the lack of documentary evidence showing Covil's presence at Celanese Spartanburg. Covil's concealment of the data tape, which may very well contain the very documents that Covil claimed were destroyed, constitutes fraud against Plaintiff and fraud on this Court. This gross misconduct is an additional ground for relief from the jury's verdict and granting a new trial.

CONCLUSION

For the reasons set forth herein, the Court grants Plaintiff's motion for relief from judgment under SCRCP 60(b)(2) and (3) and finds that the concealed data tape is an additional basis for granting a new trial.

AND IT SO ORDERED this 25 day of November 2019

Jean H. Toal, Chief Justice of the Supreme Court, Retired, acting as Circuit Court Judge

Columbia, South Carolina.

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2019 Nov 25 10:56 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Spartanburg Common Pleas

Case Caption: Jerry Howard Crawford , plaintiff, et al VS Celanese Corporation , defendant, et al

Case Number: 2017CP4204429

Type: Order/Other

IT IS SO ORDERED.

s/ Jean H. Toal #2758

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA)	IN THE COURT OF COMMON PLEAS
)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG)	C/A No. _____

JERRY HOWARD CRAWFORD and EVELYN KAY CRAWFORD

Plaintiffs,

v.

CELANESE CORPORATION;

AURORA PUMP COMPANY;

CARRIER CORPORATION;

CNA HOLDINGS LLC, f/k/a CELANESE CORPORATION f/k/a HOECHST CELANESE CORPORATION

COVIL CORPORATION;

CRANE CO.;

DANIEL INTERNATIONAL CORPORATION f/k/a DANIEL CONSTRUCTION COMPANY, INC.;

FLOWSERVE CORPORATION, individually and as successor-in-interest to ANCHOR/DARLING VALVE COMPANY and individually and as successor-in-interest to DURCO PUMPS;

FLOWSERVE US INC.;

FLUOR CONSTRUCTORS INTERNATIONAL, f/k/a/ FLUOR CORPORATION;

FLUOR CONSTRUCTORS INTERNATIONAL, INC.;

FLUOR DANIEL SERVICES CORPORATION;

In Re:
Asbestos Personal Injury Litigation
Coordinated Docket

Living Mesothelioma

SUMMONS

(Jury Trial Demanded)

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FLUOR ENTERPRISES, INC.;

FORD MOTOR COMPANY;

GENUINE PARTS COMPANY,
d/b/a RAYLOC (a/k/a NAPA);

THE GOODYEAR TIRE & RUBBER
COMPANY;

GOULDS PUMPS, INC.;

GRINNELL, LLC,
f/k/a GRINNELL CORP,
f/k/a ITT GRINNELL CORP.

HONEYWELL INTERNATIONAL, INC.,
f/k/a ALLIED-PRODUCTS LIABILITY
SIGNAL, INC., sued as successor-in-interest
to BENDIX CORPORATION;

INGERSOLL-RAND COMPANY;

JOHN CRANE, INC.;

METROPOLITAN LIFE INSURANCE
COMPANY, a wholly-owned subsidiary of
METLIFE Inc.;

NATIONAL AUTOMOTIVE PARTS
ASSOCIATION (NAPA);

PARKER-HANNIFIN CORPORATION;

PNEUMO ABEX, LLC, successor in
interest to ABEX CORPORATION;

SPIRAX SARCO, INC.;

SPX COOLING TECHNOLOGIES, INC.,
individually and successor in interest to
MARLEY COOLING TOWERS CO.

STANDARD MOTOR PRODUCTS, INC.,
sued as successor-in-interest to EIS

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

AUTOMOTIVE	)
	)
UNITED STATES FIDELITY & GUARANTY COMPANY;	)
	)
	)
THE WILLIAM POWELL COMPANY;	)
	)
Defendants.	

TO THE DEFENDANT ABOVE-NAMED:

YOUR ARE HEREBY SUMMONED and required to answer the complaint herein, a copy of which is herewith served upon you, and to serve a copy of your answer to this complaint upon the subscriber, at the address shown below, within thirty (30) days after service hereof, exclusive of the day of such service, and if you fail to answer the complaint, judgment by default will be rendered against you for the relief demanded in the complaint.

Respectfully submitted,

DEAN OMAR BRANHAM, LLP

s/ *Jonathan M. Holder*
Jonathan M. Holder (SC Bar No. 77935)
Jessica M. Dean (TX Bar No. 24025520)
To be Admitted *Pro Hac Vice*
302 N. Market Street, Ste. 300
Dallas, TX 75202
(214) 722-5990
jholder@dobllp.com
Other email: spepin@dobllp.com

KASSEL MCVEY ATTORNEYS AT LAW
Theile B. McVey (SC Bar No. 16682)
1330 Laurel Street
Columbia, South Carolina 29202
(803) 256-4242
tmcvey@kassellaw.com
Other email: emoultrie@kassellaw.com

December 4, 2017
Dallas, TX

ATTORNEYS FOR PLAINTIFFS

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	C/A No. _____

JERRY HOWARD CRAWFORD and EVELYN KAY CRAWFORD	)	
	)	In Re:
Plaintiffs,	)	Asbestos Personal Injury Litigation
	)	Coordinated Docket
v.	)	
	)	Living Mesothelioma
CELANESE CORPORATION;	)	
AURORA PUMP COMPANY;	)	
	)	**COMPLAINT**
CARRIER CORPORATION;	)	
CNA HOLDINGS LLC, f/k/a CELANESE CORPORATION f/k/a HOECHST CELANESE CORPORATION	)	(Jury Trial Demanded)
COVIL CORPORATION;	)	
CRANE CO.;	)	
DANIEL INTERNATIONAL CORPORATION f/k/a DANIEL CONSTRUCTION COMPANY, INC.;	)	
FLOWSERVE CORPORATION, individually and as successor-in-interest to ANCHOR/DARLING VALVE COMPANY and individually and as successor-in-interest to DURCO PUMPS;	)	
FLOWSERVE US INC.;	)	
FLUOR CONSTRUCTORS INTERNATIONAL, f/k/a/ FLUOR CORPORATION;	)	
FLUOR CONSTRUCTORS INTERNATIONAL, INC.;	)	
FLUOR DANIEL SERVICES	)	

CORPORATION;)
)
FLUOR ENTERPRISES, INC.;)
)
FORD MOTOR COMPANY;)
)
GENUINE PARTS COMPANY,)
d/b/a RAYLOC (a/k/a NAPA);)
)
THE GOODYEAR TIRE & RUBBER)
COMPANY;)
)
GOULDS PUMPS, INC.;)
)
GRINNELL, LLC,)
f/k/a GRINNELL CORP,)
f/k/a ITT GRINNELL CORP.)
)
HONEYWELL INTERNATIONAL, INC.,)
f/k/a ALLIED-PRODUCTS LIABILITY)
SIGNAL, INC., sued as successor-in-interest)
to BENDIX CORPORATION;)
)
INGERSOLL-RAND COMPANY;)
)
JOHN CRANE, INC.;)
)
METROPOLITAN LIFE INSURANCE)
COMPANY, a wholly-owned subsidiary of)
METLIFE Inc.;)
)
NATIONAL AUTOMOTIVE PARTS)
ASSOCIATION (NAPA);)
)
PARKER-HANNIFIN CORPORATION;)
)
PNEUMO ABEX, LLC, successor in)
interest to ABEX CORPORATION;)
)
SPIRAX SARCO, INC.;)
)
SPX COOLING TECHNOLOGIES, INC.,)
individually and successor in interest to)
MARLEY COOLING TOWERS CO.)
)
STANDARD MOTOR PRODUCTS, INC.,)

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

sued as successor-in-interest to EIS AUTOMOTIVE	)
	)
UNITED STATES FIDELITY & GUARANTY COMPANY;	)
	)
THE WILLIAM POWELL COMPANY;	)
	)
Defendants.	

GENERAL ALLEGATIONS

Plaintiffs JERRY HOWARD CRAWFORD and EVELYN KAY CRAWFORD, (hereinafter "Plaintiffs"), come before this court and complain and allege as follows:

1. Plaintiff Jerry Howard Crawford has been diagnosed with mesothelioma.

2. For approximately five years beginning in around 1970, Jerry Howard Crawford worked on various hot processes making synthetic fibers for Hoeschst Celanese in Spartanburg, South Carolina. While working for Hoescht Celanese, Jerry Howard Crawford was exposed to asbestos fibers emanating from certain products at his jobsites. Plaintiff Jerry Howard Crawford was exposed to and inhaled, ingested, or otherwise absorbed asbestos fibers emanating from these products during the normal course of his employment.

3. During various times throughout his life, including the period from approximately 1960 until 1970, Plaintiff Jerry Howard Crawford worked, or was in close proximity to those who worked, performing automotive repair in his brother-in-law's auto garage involving asbestos-containing products including, but not limited to, brake replacements, brake shoe relining and grinding, rebuilding brake systems, clutch facing replacement, engine overhauls, exhaust, gasket replacement, and other general automotive maintenance.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

4. During the course of Plaintiff's employment at the location(s) mentioned above, during both occupational and non-occupational work projects and in other ways, Plaintiff Jerry Howard Crawford was exposed to and inhaled, ingested, or otherwise absorbed asbestos fibers emanating from certain products he was working around. Plaintiff Jerry Howard Crawford worked around other trades, including but not limited to asbestos-containing products and equipment.

5. Plaintiff Jerry Howard Crawford's cumulative exposure to asbestos as a result of acts and omissions of Defendants and their defective products, individually and together, was a substantial factor in causing Plaintiff's mesothelioma and other related injuries and therefore under South Carolina law, is the legal cause of Plaintiff's injuries and damages.

6. Plaintiff was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

7. Each of the named Defendants is liable for damages stemming from its own tortious conduct or the tortious conduct of an "alternate entity" as hereinafter defined. Defendants are liable for the acts of their "alternate entity" and each of them, in that there has been a corporate name change, Defendant is the successor by merger, by successor in interest, or by other acquisition resulting in a virtual destruction of Plaintiffs' remedy against each such "alternate entity"; Defendants, each of them, have acquired the assets, product line, or a portion thereof, of each such "alternate entity"; such "alternate entities" have acquired the assets, product line, or a portion thereof of each such Defendant; Defendants, and each of them, caused the destruction of Plaintiff's remedy against each such "alternate entity"; each such Defendant has the ability to assume the risk-spreading

role of each such "alternate entity;" and that each such defendant enjoys the goodwill originally attached to each "alternate entity."

DEFENDANT	**ALTERNATE ENTITY**
CNA HOLDINGS LLC	f/k/a CELANESE CORPORATION f/k/a HOECHST CELANESE CORPORATION
DANIEL INTERNATIONAL CORPORATION	f/k/a DANIEL CONSTRUCTION COMPANY, INC.
FLOWSERVE CORPORATION	individually and as successor-in-interest to ANCHOR/DARLING VALVE COMPANY and individually and as successor-in-interest to DURCO PUMPS
FLUOR CONSTRUCTORS INTERNATIONAL	f/k/a FLUOR CORPORATION
GENUINE PARTS COMPANY	d/b/a RAYLOC, (a/k/a NAPA)
GRINNELL LLC	f/k/a GRINNELL CORP, f/k/a ITT GRINNELL CORP.
HONEYWELL INTERNATIONAL, INC.	f/k/a ALLIED-PRODUCTS LIABILITY SIGNAL, INC., sued as successor-in-interest to BENDIX CORPORATION
METROPOLITAN LIFE INSURANCE COMPANY	A wholly-owned subsidiary of MetLife Inc.
PNEUMO ABEX, LLC	Successor in interest to ABEX CORPORATION
SPX COOLING TECHNOLOGIES, INC.	individually and successor in interest to MARLEY COOLING TOWERS CO.
STANDARD MOTOR PRODUCTS, INC.	sued as successor-in-interest to EIS AUTOMOTIVE

8. Plaintiffs are informed and believe, and thereon allege, that at all times herein mentioned, Defendants or their "alternate entities" were or are corporations, partnerships, unincorporated associations, sole proprietorships and/or other business entities organized and existing under and by virtue of the laws of the State of South Carolina, or the laws of some other state or foreign jurisdiction, and that said Defendants were and/or are authorized to do business in the State of South Carolina, and that said Defendants have regularly conducted business in the State of South Carolina.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

9. Plaintiffs are informed and believe, and thereon allege, that progressive lung disease, mesothelioma and other serious diseases are caused by inhalation of asbestos fibers without perceptible trauma and that said disease results from exposure to asbestos and asbestos-containing products over a period of time.

10. As a direct and proximate result of the conduct as alleged within, Plaintiff Jerry Howard Crawford suffered permanent injuries, including, but not limited to, mesothelioma and other lung damage, as well as the mental and emotional distress attendant thereto, from the effect of exposure to asbestos fibers, all to his damage in the sum of the amount as the trier of fact determines is proper.

11. As a direct and proximate result of the conduct as hereinafter alleged, Plaintiff Jerry Howard Crawford incurred and is continuing to incur liability for physicians, surgeons, nurses, hospital care, medicine, hospices, x-rays and other medical treatment, the true and exact amount thereof being unknown to Plaintiffs at this time. Plaintiffs request leave to supplement this Court and all parties accordingly when the true and exact cost of Plaintiff's medical treatment is ascertained.

12. As a further direct and proximate result of the conduct as hereinafter alleged, Plaintiff Jerry Howard Crawford has incurred, and will incur, loss of profits and commissions, a diminishment of earning potential, and other pecuniary losses, the full nature and extent of which are not yet known to Plaintiff. Plaintiff prays leave to supplement this Court and all parties accordingly to conform to proof at the time of trial.

13. Plaintiffs hereby disclaim each and every claim or cause of action which does or may arise from any United States Navy service or on any federal enclave. This disclaimer is not related solely to actions taken by or at the direction of a federal officer,

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

but is, rather broader. Plaintiff is not making any claims and is not alleging any causes of action against any entity for any asbestos exposure of any kind which occurred as a result of Plaintiffs' United States Navy service. Moreover, Plaintiffs are further disclaiming each and every claim or cause of action arising from any exposure to asbestos as a result of the Plaintiffs presence on or at any federal enclave. Plaintiffs further disclaim each and every claim or cause of action arising under the United States Constitution and under any Federal Law or Regulation. Finally, Plaintiffs disclaim each and every claim or cause of action which may be asserted under federal admiralty or maritime law. Courts across the Country have found that such disclaimers are proper and within the province of the Plaintiffs to disclaim. Any removal by any defendant on the basis of the disclaimed claims will result in a motion for sanctions and seeking attorneys' fees.

FOR A FIRST CAUSE OF ACTION
(Product Liability: Negligence)

Plaintiffs Complain of Defendants for a Cause of Action for Negligence Alleging as Follows:

14. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

15. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others,

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

packaging and advertising a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products.

16. At all times herein mentioned, Defendants and/or their "alternate entities" singularly and jointly, negligently and carelessly researched, manufactured, fabricated, designed, modified, tested or failed to test, abated or failed to abate, inadequately warned or failed to warn of the health hazards, failed to provide adequate use instructions for eliminating the health risks inherent in the use of the products, labeled, assembled, distributed, leased, bought, offered for sale, supplied, sold, inspected, serviced, installed, contracted for installation, repaired, marketed, warranted, rebranded, manufactured for others, packaged and advertised, a certain product, namely asbestos, other products containing asbestos, and products manufactured for foreseeable use with asbestos products, in that said products caused personal injuries to Plaintiff and others similarly situated, (hereinafter collectively called "exposed persons"), while being used for their intended purpose and in a manner that was reasonably foreseeable.

17. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos and asbestos-containing products from causing Plaintiff's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled. Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products of Defendants and/or their "alternate entities."

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur to users of its products, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use by Plaintiff. Defendants and/or their "alternate entities" had a duty to exercise due care in the pursuance of the activities mentioned above and Defendants, each of them, breached said duty of due care.

18. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and asbestos-containing products would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling by exposed persons, including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

19. At all times relevant, Defendants and/or their "alternate entities" were aware of their asbestos and asbestos-containing products' defect but failed to adequately warn Plaintiffs, Plaintiffs' family members or others in their vicinity, as well as failed to adequately warn others of the known hazards associated with their products and/or failed

to recall or retrofit their products. A reasonable manufacturer, distributor, or seller of Defendants' products would have, under the same or similar circumstances, adequately warned of the hazards associated with their products.

20. Plaintiffs' family members and others in their vicinity used, handled or were otherwise exposed to asbestos and asbestos-containing products referred to herein in a manner that was reasonably foreseeable. Plaintiff's exposure to asbestos and asbestos-containing products occurred at various locations as set forth in this Complaint.

21. Plaintiff suffers from mesothelioma, a cancer related to exposure to asbestos and asbestos-containing products. Plaintiff was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury or disease.

22. Defendants' conduct and defective products as described in this cause of action were a direct cause of Plaintiff's injuries, and all damages thereby sustained by Plaintiffs. Plaintiffs therefore seek all compensatory damages in order to make them whole, according to proof.

23. Furthermore, the conduct of Defendants and/or their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff and the public without adequate warnings or proper use instructions was done in a conscious disregard and indifference to the safety and health of Plaintiff and others similarly situated.

24. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, failing to recall or retrofit, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting,

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

rebranding, manufacturing for others, packaging and advertising asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, Defendants and/or their "alternate entities" did so with conscious disregard for the safety of "exposed persons" who came in contact with asbestos and asbestos-containing products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos, asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, asbestosis, mesothelioma, lung cancer, and other lung damages. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

25. Defendants and their "alternate entities" were aware that members of the general public and other "exposed persons," who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products, could cause injury, and Defendants and their "alternate entities," each of them, knew that members of the general public and other "exposed persons," who came in contact with asbestos and asbestos-containing products or products manufactured for foreseeable use with asbestos products, would assume, and in fact did assume, that exposure to asbestos and asbestos-containing products was safe, when in fact said exposure was extremely hazardous to health and human life.

26. The above-referenced conduct of Defendants and their "alternate entities," was motivated by the financial interest of Defendants, their "alternate entities," and each of them, in the continuing, uninterrupted research, design, modification, manufacture,

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Defendants, their "alternate entities," and each of them consciously disregarded the safety of "exposed persons" in pursuit of profit. Defendants were consciously willing and intended to permit asbestos and asbestos-containing products to cause injury to "exposed persons" without warning them of the potential hazards and further induced persons to work with and be exposed thereto, including Plaintiff.

27. Plaintiff and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos containing-products, and products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff or other exposed persons. Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

28. Defendants and/or their "alternate entities" are liable for the fraudulent, oppressive, and malicious acts of their "alternate entities," and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and had full knowledge of, or should have known of, the acts of each of their "alternate entities" as set forth herein.

29. The herein-described conduct of Defendants and their "alternate entities," was and is willful, malicious, fraudulent, and outrageous and in conscious disregard and indifference to the safety and health of persons foreseeably exposed. Plaintiff, for the

sake of example and by way of punishing said Defendants, seeks punitive damages according to proof.

FOR A SECOND CAUSE OF ACTION

(Product Liability: Strict Liability- S.C. Code Ann. sec. 15-73-10, et seq.)

As a Second and Distinct Cause of Action for Strict Liability, Plaintiffs Complain of Defendants, and Allege as Follows:

30. Plaintiffs incorporate herein by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

31. Plaintiff suffers from mesothelioma, a cancer related to exposure to asbestos, asbestos-containing products and products manufactured for foreseeable use with asbestos products. Plaintiff was not aware at the time of exposure that asbestos or asbestos-containing products presented any risk of injury and/or disease.

32. Defendants' conduct and defective products as described above were a direct cause of Plaintiff's injuries, and the injuries and damages thereby sustained by Plaintiffs.

33. Furthermore, the Defendants' conduct and that of their "alternate entities" in continuing to market and sell products which they knew were dangerous to Plaintiff and the public without adequate warnings or proper use instructions, was done in a conscious disregard and indifference to the safety and health of Plaintiff and others similarly situated.

34. Defendants and/or their "alternate entities" knew or should have known, and intended that the aforementioned asbestos and products containing asbestos would be transported by truck, rail, ship and other common carriers, that in the shipping process the products would break, crumble or be otherwise damaged; and/or that such products

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

would be used for insulation, construction, plastering, fireproofing, soundproofing, automotive, aircraft and/or other applications, including, but not limited to grinding, sawing, chipping, hammering, scraping, sanding, breaking, removal, "rip-out," and other manipulation, resulting in the release of airborne asbestos fibers, and that through such foreseeable use and/or handling, "exposed persons," including Plaintiff, would use or be in proximity to and exposed to said asbestos fibers.

35. Plaintiff, Plaintiff's family members, and others in their vicinity used, handled or were otherwise exposed to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, referred to herein in a manner that was reasonably foreseeable. Plaintiff's exposure to asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products occurred at various locations as set forth in this Complaint.

36. Defendants and/or their "alternate entities" knew and intended that the above-referenced asbestos and asbestos-containing products would be used by the purchaser or user without inspection for defects therein or in any of their component parts and without knowledge of the hazards involved in such use.

37. The asbestos and asbestos-containing products were defective and unsafe for their intended purpose in that there was an alternative for asbestos that could have been used as the product or as a component instead of asbestos within a normally asbestos-containing/utilizing product. Said alternatives would have prevented Defendants' asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products from causing Plaintiff's mesothelioma, due to an inability of any asbestos-alternative to penetrate the pleural lining of Plaintiff's lung, even if inhaled.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Said alternatives came at a comparable cost to each of the Defendants and/or their "alternate entities." Said alternatives were of comparable utility to the asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products of Defendants and/or their "alternate entities." The gravity of the potential harm resulting from the use of Defendants' asbestos or asbestos-containing products, and the likelihood such harm would occur, far outweighed any additional cost or marginal loss of functionality in creating and/or utilizing an alternative design, providing adequate warning of such potential harm, and/or providing adequate use instructions for eliminating the health risks inherent in the use of their products, thereby rendering the same defective, unsafe and dangerous for use.

38. The defect existed in the said products at the time they left the possession of defendants, their "alternate entities," and each of them. Said products were intended to reach the ultimate consumer in the same condition as it left defendants. Said products did, in fact, cause personal injuries, including mesothelioma, asbestosis, other lung damage, and cancer to "exposed persons," including Plaintiff herein, while being used in a reasonably foreseeable manner, thereby rendering the same defective, unsafe and dangerous for use.

39. Plaintiff and other exposed persons did not know of the substantial danger of using Defendants' asbestos, asbestos-containing products, or products manufactured for foreseeable use with asbestos products. The dangers inherent in the use of these products were not readily recognizable by Plaintiff or other exposed persons. Said Defendants and/or their "alternate entities" further failed to adequately warn of the risks to which Plaintiff and others similarly situated were exposed.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

40. Defendants' defective products as described above were a direct cause of Plaintiff's injuries, and the damages thereby sustained.

41. In researching, manufacturing, fabricating, designing, modifying, testing or failing to test, warning or failing to warn, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, rebranding, manufacturing for others, packaging and advertising asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, Defendants, their "alternate entities," and each of them, did so with conscious disregard for the safety of Plaintiff and other exposed persons who came in contact with the asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products, in that Defendants and/or their "alternate entities" had prior knowledge that there was a substantial risk of injury or death resulting from exposure to asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products, including, but not limited to, mesothelioma, asbestosis, other lung damages and cancers. This knowledge was obtained, in part, from scientific studies performed by, at the request of, or with the assistance of Defendants and/or their "alternate entities."

42. Defendants and/or their "alternate entities" were aware that members of the general public and other exposed persons, who would come in contact with their asbestos and asbestos-containing products, had no knowledge or information indicating that asbestos or asbestos-containing products or products manufactured for foreseeable use with asbestos products could cause injury. Defendants and/or their "alternate entities" further knew that members of the general public and other exposed persons, who came in

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

contact with asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products would assume, and in fact did assume, that exposure to asbestos and asbestos- containing products was safe, when in fact exposure was extremely hazardous to health and human life.

43. The above-referenced conduct of Defendants and/or their "alternate entities" motivated by the financial interest of Defendants, their "alternate entities," and each of them, in the continuing and uninterrupted research, design, modification, manufacture, fabrication, labeling, instructing, assembly, distribution, lease, purchase, offer for sale, supply, sale, inspection, installation, contracting for installation, repair, marketing, warranting, rebranding, manufacturing for others, packaging and advertising of asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products. Defendants and/or their "alternate entities" consciously disregarded the safety of "exposed persons" in their pursuit of profit and in fact consciously intended to cause injury to Plaintiff and other exposed persons and induced persons to work with, be exposed to, and thereby injured by asbestos, asbestos-containing products, and products manufactured for foreseeable use with asbestos products.

44. Defendants are liable for the fraudulent, oppressive, and malicious acts of their "alternate entities," and each Defendant's officers, directors and managing agents participated in, authorized, expressly and impliedly ratified, and knew, or should have known of, the acts of each of their "alternate entities" as set forth herein.

45. The conduct of said defendants, their "alternate entities," and each of them as set forth in this Complaint, was and is willful, malicious, fraudulent, outrageous and in conscious disregard and indifference to the safety and health of exposed persons.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Plaintiff, for the sake of example and by way of punishing said Defendants, seeks punitive damages according to proof.

46. At all times herein mentioned, each of the named Defendants was an entity and/or the successor, successor in business, successor in product line or a portion thereof, assign, predecessor, predecessor in business, predecessor in product line or a portion thereof, parent, subsidiary, or division of an entity, hereinafter referred to collectively as "alternate entities," engaged in the business of researching, studying, manufacturing, fabricating, designing, modifying, labeling, instructing, assembling, distributing, leasing, buying, offering for sale, supplying, selling, inspecting, servicing, installing, contracting for installation, repairing, marketing, warranting, re-branding, manufacturing for others, packaging and advertising a certain product, namely asbestos, other products containing asbestos and products manufactured for foreseeable use with asbestos products.

FOR A THIRD CAUSE OF ACTION
(Vicarious Liability of Defendants Based upon Respondeat Superior)

As a Third Distinct Cause of Action Against Defendants, Plaintiffs Bring this Third Cause of Action for Vicarious Liability of Defendants Based upon Respondeat Superior and Allege as Follows:

47. Plaintiffs incorporate by reference, as though fully set forth herein, each and every paragraph of the General Allegations above.

48. Prior to and during all relevant times Defendants employed workers (hereinafter "employees") in areas where defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff worked and/or spent time as alleged above.

49. At all times herein mentioned, Defendants' employees frequently encountered asbestos-containing products, materials, and debris during the course and

scope of their employment, and during their regular work activities negligently disturbed asbestos-containing materials to which Plaintiff was exposed.

50. Employees handling and disturbing asbestos-containing products in Plaintiff's vicinity were the agents and employees of defendants and at all times relevant were subject to the control of Defendants with respect to their acts, labor, and work involving (a) the removal, transport, installation, cleaning, handling, and maintenance of asbestos-containing products, materials, and debris, and (b) the implementation of safety policies and procedures. Defendants controlled both the means and manner of performance of the work of their employees as described herein.

51. Employees handling and disturbing asbestos-containing products in Plaintiff's, Plaintiff's family members and others' vicinity received monetary compensation from Defendants in exchange for the work performed and these employees performed the work in the transaction and furtherance of Defendants' businesses.

52. Harmful asbestos fibers were released during Defendants' employees' use, handling, breaking, or other manipulation of asbestos-containing products and materials.

53. Once released, the asbestos fibers contaminated the clothes, shoes, skin, hair, and body parts of those exposed, including Plaintiff, who also inhaled those fibers, and on the surfaces of work areas, where further activity caused the fibers to once again be released into the air and inhaled by Plaintiff.

54. The asbestos and asbestos-containing materials were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air onto surrounding surfaces, and onto persons in the area. The inhalation of asbestos fibers can cause serious disease and death.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

55. Defendants' employees' use, handling and manipulation of asbestos-containing materials, as required by their employment and occurring during the course and scope of their employment, did in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons including Plaintiff.

56. Defendants' employees were negligent in their use, handling and manipulation of said products in that they failed to isolate their work with asbestos and/or to suppress asbestos fibers from being released into the air and surrounding areas. They also failed to take appropriate steps to learn how to prevent exposure to asbestos, failed to warn and/or adequately warn Plaintiff that he was being exposed to asbestos, failed to adequately warn Plaintiff of the harm associated with his exposure to asbestos, and provide him with protection to prevent his inhalation of asbestos.

57. Defendants' employees knew or should have known that failure to take such steps would result in exposure to bystanders including Plaintiff.

58. Defendants' employees owed Plaintiff a duty to exercise due care and diligence in their activities while he was lawfully on the premises so as not to cause him harm.

59. Defendants' employees breached this duty of care as described above.

60. At all times mentioned, Plaintiff was unaware of the dangerous condition and unreasonable risk of personal injury created by Defendants' employees' use of and work with asbestos-containing products and materials.

61. As a direct result of the Defendants' employees conduct, Plaintiff's exposure to asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products, each individually and together, caused severe and

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

permanent injury to Plaintiff and the damages and injuries as complained of herein by Plaintiff.

62. The risks herein alleged and the resultant damages suffered by the Plaintiff were typical of or broadly incidental to Defendants' business enterprises. As a practical matter, the losses caused by the torts of Defendants' employees as alleged were sure to occur in the conduct of Defendants' business enterprises. Nonetheless, Defendants engaged in, and sought to profit by, their business enterprises without exercising due care as described in this Complaint, which, on the basis of past experience, involved harm to others as shown through the torts of employees.

63. Based on the foregoing, Defendants as the employers of said employees are vicariously liable under the doctrine of *respondeat superior* for all negligent acts and omissions committed by their employees in the course and scope of their work that caused harm to Plaintiff.

FOR A FOURTH CAUSE OF ACTION
(Premises Liability: Negligence as to Premise Owner/Contractor)

As a Fourth Distinct Cause of Action for General Negligence, Plaintiffs Complain of Defendants, and Allege as Follows:

64. Plaintiffs incorporate herein by reference, as though fully set forth, each and every paragraph of the General Allegations above.

65. Prior to and during all relevant times, Defendants employed workers in areas where Defendants owned, maintained, controlled, managed and/or conducted business activities where Plaintiff worked and/or spent time.

66. At all times herein mentioned, Defendants selected, supplied, and distributed asbestos-containing materials to their employees for use during their regular work activities, and said employees disturbed those asbestos-containing materials.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

67. Defendants were negligent in selecting, supplying, distributing and disturbing the asbestos-containing products and in that said products were unsafe. Said products were unsafe because they released asbestos fibers and dust into air when used which would be inhaled by Plaintiff and settled onto Plaintiff's clothes, shoes, hands, face, hair, skin, and other body parts thus creating a situation whereby workers and by-standers including Plaintiff would be exposed to dangerous asbestos dust beyond the present.

68. The asbestos, asbestos-containing materials, and products manufactured for foreseeable use with asbestos products described herein were unsafe in that handling and disturbing products containing asbestos causes the release of asbestos fibers into the air, and the inhalation of asbestos fibers causes serious disease and death. Here, the handling of the above-described asbestos-containing materials by Defendants' employees, as required by their employment and occurring during the course and scope of their employment, did, in fact, cause personal injuries, including mesothelioma and other lung damage, to exposed persons, including Plaintiff.

69. At all times herein mentioned, Defendants knew or should have known that its employees and bystanders thereto, including Plaintiff, frequently encountered asbestos-containing products and materials during the course and scope of their work activities.

70. At all times herein mentioned, Defendants knew or should have known that the asbestos-containing materials encountered by its employees and bystanders thereto including Plaintiff, were unsafe in that harmful asbestos fibers were released during the use, handling, breaking, or other manipulation of asbestos-containing products and

materials, and that once released, asbestos fibers can be inhaled, and can alight on the clothes, shoes, skin, hair, and body parts of those exposed, where further activity causes the fibers to once again be released into the air where they can be inhaled, all of which causes serious disease and/or death.

71. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that absent adequate training and supervision, their employees and bystanders thereto including Plaintiff were neither qualified nor able to identify asbestos-containing products nor to identify the hazardous nature of their work activities involving asbestos-containing products.

72. At all times herein mentioned, Plaintiff was unaware of the dangerous condition and unreasonable risk of personal injury created by the presence and use of asbestos-containing products and materials.

73. At all times herein mentioned, Defendants, in the exercise of reasonable diligence, should have known that workers and bystanders thereto, would bring dangerous dust home from the workplace and contaminate their family cars and homes, continuously exposing and potentially causing injury to others off the premises.

74. At all times herein mentioned, Defendants had a duty to use due care in the selection, supply, distribution and disturbance of asbestos-containing products and materials to its employees, to adequately instruct, train, and supervise their employees and to implement adequate safety policies and procedures to protect workers and persons encountering those workers, including Plaintiff, from suffering injury or death as a result of the asbestos hazards encountered and created by the work of Defendants' employees.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

75. Defendants' duties as alleged herein exist and existed independently of Defendants' duties to maintain their premises in reasonably safe condition, free from concealed hazards.

76. Defendants negligently selected, supplied, and distributed the asbestos-containing materials and failed to adequately train or supervise their employees to identify asbestos-containing products and materials; to ensure the safe handling of asbestos-containing products and materials encountered during the course of their work activities; and to guard against inhalation of asbestos fibers and against the inhalation of asbestos fibers by those who would come into close contact with them after they had used, disturbed, or handled, said asbestos-containing products and materials during the course and scope of their employment by defendants.

77. Defendants failed to warn its employees and bystanders thereto, including Plaintiff, of the known hazards associated with asbestos and the asbestos-containing materials they were using and/or disturbing.

78. As a direct and proximate result of the conduct of Defendants in selecting, supplying, distributing and disturbing asbestos-containing materials or products manufactured for foreseeable use with asbestos products and failing to adequately train and supervise their employees and failing to adopt and implement adequate safety policies and procedures as alleged herein, Plaintiff became exposed to and inhaled asbestos fibers, which was a substantial factor in causing Plaintiff to develop asbestos-related mesothelioma, and to suffer all damages attendant thereto.

79. Plaintiff Jerry Howard Crawford's mesothelioma did not develop within two years of his last exposure at Hoechst Celanese, as required to be compensable under the

South Carolina Workers Compensation Act. Rather, Mr. Crawford's cancer developed approximately thirty years after he was last employed at Hoechst Celanese and exposed to asbestos on their property.

80. Plaintiff Jerry Howard Crawford is not entitled to compensation or recovery from Hoechst Celanese under the South Carolina Workers' Compensation Act.

FOR A FIFTH CAUSE OF ACTION
(Product Liability: Breach of Implied Warranties- S.C. Code Ann. 36-2-314)

As a Fifth Distinct Cause Of Action for Breach of Implied Warranties, Plaintiffs Complain of Defendants and Alleges as Follows:

81. Plaintiffs repeat the general allegations, as well as allegations of the First and Second, of Action where relevant.

82. Each of the Defendants impliedly warranted that their asbestos materials or asbestos-containing products were of good and merchantable quality and fit for their intended use.

83. The implied warranty made by the Defendants that the asbestos and asbestos-containing products were of good and merchantable quality and fit for the particular intended use, was breached. As a result of that breach, asbestos was given off into the atmosphere where Plaintiff Jerry Howard Crawford carried out his duties and was inhaled by Plaintiff.

84. As a direct and proximate result of the breach of the implied warranty of good and merchantable quality and fitness for the particular intended use, Plaintiff Jerry Howard Crawford was exposed to Defendants' asbestos, asbestos-containing products, and/or products manufactured for foreseeable use with asbestos products and consequently developed mesothelioma, causing Plaintiffs to suffer all damages attendant thereto.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A SIXTH CAUSE OF ACTION
(Fraudulent Misrepresentation)

For a Sixth Distinct Cause of Action for Fraudulent Misrepresentation, Plaintiffs Complain of Defendants, and Allege as Follows:

85. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

86. That during, before and after Plaintiff Jerry Howard Crawford's exposure to asbestos products manufactured by Defendants, the Defendants falsely represented facts, including the dangers of asbestos exposure to Plaintiff in the particulars alleged in the paragraphs above, while Defendants each had actual knowledge of said dangers of asbestos exposure to persons such as Plaintiff Jerry Howard Crawford. At the same time of these misrepresentations, Defendants each knew of the falsity of their representations and/or made the representations in reckless disregard of their truth or falsity.

87. The foregoing representations were material conditions precedent to Plaintiff Jerry Howard Crawford's continued exposure to asbestos-containing products. Defendants each intended that Plaintiff act upon the representations by continuing his work around, and thereby exposure to, the asbestos products. Plaintiff was ignorant of the falsity of Defendants' representations and rightfully relied upon the representations.

88. As a direct and proximate result of Plaintiff Jerry Howard Crawford's reliance upon Defendants' false representations, Plaintiff has suffered injury and damages as described herein.

FOR A SEVENTH CAUSE OF ACTION
(Direct Negligence Action against USF&G)

89. Plaintiffs repeat and re-allege the portions of the above paragraphs where relevant.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

90. The Plaintiff worked at various job sites at which asbestos-containing products were provided and used by companies insured by USF&G including Daniel International Corporation f/k/a Daniel Construction Company, and Fluor Enterprises Inc. f/k/a Fluor Daniel, Inc. (collectively "Daniel"). These contracting companies purchased liability and workers compensation insurance from USF&G from approximately 1952 until at least 1987. The Plaintiff was exposed to asbestos via Daniel Construction Company at locations including, but not limited to: Hoechst Celanese, Spartanburg, SC. As part of USF&G's procedures for insuring a worksite, one or more representatives from USF&G visited the Hoechst Celanese worksite regularly in Spartanburg, SC specifically, to take safety surveys for an update report to Daniel of any safety issues.

91. The Plaintiff's job required that he work along with and in the direct vicinity of Daniel employees and contractors when they installed and removed asbestos insulation, gaskets, packing, and other asbestos containing products and materials. At no time was he advised or warned by Daniel or USF&G of the hazards of the asbestos substances to which he was injuriously being exposed.

92. During the pertinent times, USF&G knew or should have known of the health hazards associated with take home and bystander exposure to asbestos. Because it provided insurance coverage to Daniel and, as part of that coverage, provided safety services to Daniel, USF&G owed a duty to Daniel employees, their families, and their co-workers, such as the Plaintiff, who were present at Daniel job sites and worked in the direct vicinity of asbestos-containing products, aka the zone of danger.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

93. During the pertinent times, USF&G employed safety agents including agents assigned to the accounts that serviced the plants at which the Plaintiff was injuriously exposed to asbestos.

94. USF&G instituted a school of insurance in Baltimore in 1935 for the training of its insurance agents. These regional agents were trained by medical doctors and others who had great expertise in safety hazards, medicine, and occupational diseases including asbestos hazards.

95. USF&G became aware of the hazards of asbestos dust and fibers including the knowledge that those exposed to asbestos were at an increased risk for the development of asbestos disease and lung cancer at least as early as the 1930s. In addition to providing liability, workers' compensation and other accident and general insurance, USF&G also wrote health insurance that included coverage for diseases.

96. South Carolina passed legislation prior to Mr. Crawford's first day on the job mandating that asbestos was a compensable occupational disease. USF&G provided workers compensation coverage to employers whose employees injuriously exposed Plaintiff to asbestos. Beginning in the 1950's, and for years thereafter, USF&G was a named defendant for asbestos-related claims filed by employees of its insured.

97. By early 1950, USF&G had over 9,000 agents that served at least 42 branch offices; more than 1,200 of those agents had been with the company for a quarter of a century. These agents provided safety-related services to Daniel yet failed to implement and request adequate safety and industrial hygiene standards. These agents assumed the duty of addressing any deficiencies they observed at the workplace and were extensively involved in workplace safety at the Daniel job sites.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

98. In an attempt to sell more insurance, USF&G touted to its insureds the special education it gave its agents and that in the field of safety engineering and reduction of compensation claims, its agents would play an important role. Eventually, USF&G began to charge an additional premium to its insureds including Daniel for the safety program that it developed and sold to those companies. It developed a medical department that was used by injured employees of the companies it insured for workers' compensation coverage.

99. The theme used by the company for the Company's advertising was "Consult your insurance agent or broker as you would your doctor or lawyer." Accordingly, those companies that purchased liability coverage from USF&G and especially those companies that paid additional premiums reasonably relied upon USF&G to provide them the information and assistance necessary to provide a safe working environment to protect employees, invitees and others present on the site premises from occupational hazards.

100. USF&G held itself out as "the insurance company of safety." In fact, publications describing USF&G in 1946 recognized:

"Never before in the history of insurance have employers and employees derived so much benefit and faithful service from the casualty companies as since compensation has been in existence. They have been scientifically instructed in how to provide sanitary and workable conditions in factories, how to protect and guard machinery, elevators and other dangerous conditions. This has had a tendency to create a much better feeling between the employer and the employee. Accidents cannot be wholly eliminated but when they do occur the best medical and surgical service is provided through the casualty

company, and an employee suing an employer for injury sustained is almost unknown. It is true that compensation insurance costs more than was previously paid for liability, but the employer receives so much more for his money."

101. USF&G became an active member of the National Safety Council ("NSC") on or before 1949, and was kept abreast by it of occupational hazards. The NSC was set up in 1912 as management's response to the industrial safety issue with its associated problems of disability compensation. "National Safety News," the main periodical of the NSC from 1919 forward ran a number of articles dealing with asbestos-related diseases. It held annual congresses, and these published transactions of these meetings were automatically mailed to the industrial members. USF&G was a member of and entered into a contract with the NSC to provide it information regarding occupational hazards including asbestos. This information was then sent to the trained safety insurance agents. The agents' employees were trained in the hazards of asbestos for the purpose of allowing them to use this information to protect the employees of their insured and others who were working in the vicinity thereto from hazardous working conditions such as Plaintiff.

102. The USF&G representative that provided the safety services to the Hoechst Celanese job site where the Plaintiff was exposed to asbestos, most likely received training at USF&G's school in Baltimore, and was aware as early as 1949 about the hazards of asbestos exposure.

103. At the time that USF&G insured Daniel and subsequently Fluor Daniel, Daniel was one of the largest construction companies in the Southeast. By the mid-1970s, Daniel was the nation's second largest publicly-owned general contracting firm.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

At that time it had over 39,000 employees involved in 43 divisions and subsidiaries one of the largest contractors in the country, particularly in the Southeast. USF&G considered Daniel to be one of its largest customers.

104. Upon information and belief, in December 1955, Daniel and USF&G had a meeting to discuss USF&G providing coverage for all of Daniel' insurance needs. As a result of this meeting and subsequent agreements, in 1956 UFS&G became Daniel' main insurance provider and the policies included comprehensive general liability workers' compensation as well as umbrella and excessive coverages. Daniel paid an extra premium for the health and safety program that it purchased from USF&G. In return for the additional premiums, USF&G agreed to be the safety arm of Daniel. USF&G, at all times during Plaintiff's employment, assumed the responsibility for providing a safe working environment for any individual who worked at facilities in which Daniel employees were present and working with asbestos yet it did nothing to mitigate or eliminate exposure to asbestos fibers.

105. Daniel did not have a safety department, an industrial hygienist or a medical department before the early 1970s and even thereafter continued to rely upon USF&G to protect against industrial hazards including asbestos.

106. As a result of this contractual relationship, loss control representatives of USF&G scheduled and conducted monthly safety surveys of designated projects, made internal safety audit reports, issued special safety guidelines and made specific loss control recommendations, and provided other safety services. Often these recommendations were handled at that time on site at the direction of the USF&G representative.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

107. The Plaintiff was being injuriously exposed to asbestos as a result of his job duties inhaling deadly dust and fibers from plants including, but not limited to, Hoechst Celanese, Spartanburg, SC, during the various years that USF&G had contracted with Daniel to provide safety. Daniel' contract with facilities provided that Daniel would use asbestos-containing products for insulation and other purposes. Plaintiff's exposures from his activities resulted from inadequate training, supervision, and other negligent acts of Daniel employees and contractors, whose actions were substantially attributable to the failure of USF&G to properly educate, supervise, warn, and train Daniel employees and others in safe work practices when handling asbestos materials.

108. While Daniel did eventually hire an individual, Arnold Runion, whose job included addressing safety issues, this individual had little safety training and/or experience. As a consequence, Daniel and Mr. Runion continued to rely upon USF&G to provide its safety training, advice, inspections, and generally, to manage and to correct unsafe practices.

109. The pertinent policies negotiated between Daniel and USF&G during the coverage periods were usually for one year. USF&G issued policies to Daniel, its subsidiaries and additional insureds from 1956 until 1987. Upon information and belief, the relevant contracts between USF&G and Daniel during the relevant time period of the Plaintiff's exposure to asbestos are as follows:

Policy Number	Policy Period
R1CC 06401	10/1/66-67
R1CC 330080	10/1/70-71
R1CC 783861	10/1/73-74
R1CC 865801	10/1/75-76
R1CC 865802	10/1/76-11/1/77

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

110. The safety program of USF&G for prevention of liability claims against Daniel was called the USF&G Program and USF&G developed certain forms for designated Daniel projects.

111. USF&G accepted as part of its responsibility that its role was to prevent accidents and reduce compensation claims. USF&G maintained safety files that included the types of claims, accidents, and safety performance for each of the Daniel job sites; ultimately Daniel safety performance awards as early as 1963 were determined by the information maintained and coordinated by USF&G.

112. The safety awards that were given were determined primarily by employees in USF&G's Birmingham office, including the superintendent of the IEA or Industrial Engineering and Audit Department; this information was prepared by the local safety agents of USF&G as a result of the loss control, safety and inspections of the various sites.

113. The program required that USF&G perform many surveys of job sites. These surveys included an opening conference report, a survey of designated areas by someone from USF&G with authority to correct any unsafe acts; a handwritten safety survey report, specific loss control recommendations, and discussions with Daniel workers and supervisors along with a conclusion conference.

114. USF&G's loss control coordinator worked closely with Daniel with regard to the facilities at which the Plaintiff was exposed to asbestos dust and fibers that he carried home to his family and resulting in his exposure and disease. Not once did USF&G suggest a remedy or correction action.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

115. The work-related injuries and diseases for Daniel employees were filed with USF&G on USF&G-prepared forms and Daniel provided specific information regarding injuries and claims directly to the Charlotte USF&G office. Accordingly, USF&G knew and/or should have known that Daniel employees and others exposed to asbestos at locations that it insured were leaving work covered in the toxic asbestos dust and fibers resulting in take home and bystander exposure.

116. During the years that the Plaintiff worked on the Daniel projects, USF&G safety representatives were aware that asbestos was not being properly handled; however USF&G loss control coordinators at plants where the Plaintiff worked failed to take the appropriate measures to compel its insured's to comply with the state and federal standards.

117. Daniel was so reliant on USF&G that it required that USF&G's safety officer who was directing Daniel's safety to be housed at Daniel's headquarters in Greenville, South Carolina. Upon, information and belief, the USF&G office in Birmingham Alabama, was also housed in a Daniel building.

118. USF&G's active involvement in handling, defending, and monitoring the asbestos-related claims made against Daniel included preparing, providing and summarizing for Daniel asbestos claims made by others, including some of those who worked at facilities where Plaintiff worked and was being exposed and covered in asbestos without adequate protection during the pertinent times.

119. USF&G recognized that with respect to workers such as Plaintiff who were working in facilities as contractors where asbestos was present and/or being used that it was quite impossible for a contractor not to have some asbestos exposure.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

120. Daniel specifically relied upon USF&G to provide Daniel information about asbestos and the asbestos potential liability of Daniel for exposures to employees, premises invitees, and others.

121. At all times pertinent hereto, USF&G had the ability and the authority to control and to correct the unsafe working environments and knew and/or should have known and corrected the injurious exposures of Plaintiff to asbestos.

122. Daniel acted negligently at the plants that Plaintiff worked, while performing its duties and obligations to provide general and/or specific plant maintenance; their employees, agents and/or servants, handled and/or distributed asbestos-containing material in such a way as to expose the Plaintiff to airborne asbestos dust and fibers.

123. Specifically, and, as part of their contractual obligations, employees, agents and/or servants of the Defendants Daniel and Fluor transported, installed, disturbed, removed and otherwise handled asbestos, and asbestos-containing materials, in and throughout the plants at which the Plaintiff worked causing him, to take home excessive amounts of asbestos dust and fibers which Plaintiff was exposed to while doing laundry, sweeping the floor, hugging his spouse, and riding in the car.

124. USF&G knew that bystander exposure to asbestos fibers or asbestos-containing materials is deleterious, carcinogenic, and otherwise harmful to persons exposed to asbestos fibers.

125. USF&G had actual knowledge of the hazardous nature of the asbestos dust and fibers before the commencement of the work performed at the South Carolina plants.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

126. As a direct and/or proximate result of USF&G's and all Defendants' acts and omissions, the Plaintiff suffered irreparable injury and harm.

127. The injuries sustained by the Plaintiff were a reasonably foreseeable result of the negligent acts of the Defendants, their responsible agents, servants and/or employees.

128. The actions and/or omissions of the Defendants herein were reckless, willful, wanton and/or amounted to gross negligence.

129. Throughout the years that Plaintiff worked at Daniel job sites at which Daniel was performing asbestos works, USF&G failed to provide the safety services necessary to provide Plaintiff a safe working environment and to prevent his exposure to the asbestos that ultimately resulted in his asbestos-related disease.

130. As a result of the above alleged facts, during the pertinent times, USF&G placed itself in a position where its conduct could reasonably have been expected to affect the interest of affected workers such as Plaintiff, such that the law imposed upon Defendants an obligation to act in such a way that the Plaintiff would not be injured. Specifically:

(a) Defendant USF&G's conduct was intended to and did affect Plaintiff and other similarly situated individuals;

(b) The harm that occurred was reasonably foreseeable;

(c) Defendant's intimate involvement with Daniel's activities reflected a close connection between the Defendant's conduct and the asbestos exposures that occurred and subsequently injured the Plaintiff;

(d) Defendant undertook for consideration to render services to Daniel which Defendant should have recognized and did recognize as necessary for the protection of third parties, and is subject to

liability resulting from its failure to exercise reasonable care in the process; and

(e) Defendant's failure to exercise reasonable care resulted in exposing Plaintiff to excessive amounts of asbestos dust and fibers; Defendant undertook to perform duties of care owed by Daniel to the Plaintiff ; and Plaintiff was harmed due to Plaintiff, or Daniel's reliance on the Defendant USF&G's proper performance of its duties.

(f) Defendant owed Plaintiff and Daniel a duty of reasonable care commissioned with the risk and breached said duty.

131. As a result of the above alleged facts, during the pertinent times, Plaintiff alleges that the Defendant USF&G:

(a) Wantonly and/or negligently provided engineering, consulting, testing or inspection services to Plaintiff employer with respect to asbestos in the workplace, and said wantonness and/or negligence was a proximate cause of Plaintiff's injuries described herein;

(b) Wantonly and/or negligently failed to warn Plaintiff and Plaintiff's immediate family and its own insured of the dangers associated with asbestos dust and asbestos fibers in the workplace;

(c) Failed to provide reasonably adequate warning of the potential harm that it knew or should have known would result from the exposure to asbestos-containing dust and, alternatively failed to provide reasonably adequate instructions for the safe use of the products and/or materials;

(d) Failed to take reasonable care to provide users and others exposed to asbestos, such as Plaintiff, with reasonably proper respirators to protect them from the hazards of asbestos exposure;

(e) Continued to insure its customers, knowing that they were allowing individuals such as Plaintiff to be unknowingly exposed to asbestos-containing products while recognizing that such exposures were likely to cause disease and cancer, including the very cancer that Plaintiff developed; and

(f) Continued its negligent, willful and wanton conduct throughout the pertinent times such that as a direct and proximate result of USF&G's failure to provide a safe working environment and to educate Plaintiff and Daniel co-workers and contractors, the Plaintiff developed an asbestos-related disease and is damaged.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A EIGHTH CAUSE OF ACTION
(Conspiracy, Concert of Action- Defendant Metropolitan Life Insurance Company)

132. Plaintiff incorporates by reference the allegations contained in paragraphs 1-133 as though fully set forth herein.

133. Beginning in the late 1920's, conspirators including Defendant Metropolitan Life Insurance Company ("Met Life"), as well as Johns-Manville, Raybestos-Manhattan and others, undertook a duty to conduct research on asbestos-related health problems and to inform the public about any health risks that could be associated therewith. In or about 1929, Met Life, through its agents and employees acting within the scope of their agency and employment, including but not limited to Dr. Anthony J. Lanza ("Lanza"), began an investigation of asbestos-related health hazards. In 1935, this study was altered by Lanza, with the full knowledge of Met Life, at the request of and in concert with the asbestos industry in order to wrongly influence the United States Public Health Service, the United States medical community and various state legislatures.

134. Thereafter, Defendant Met Life through the acts and omissions of its employees, most notably Lanza, undertook a series of activities with various members of the asbestos industry including but not limited to Johns-Manville, Raybestos-Manhattan/ Raymark Industries, Inc., United States Gypsum, American Brake Blok/Abex, and others to suppress and misrepresent the dangers of exposure to asbestos dust to employees of Met Life's insureds and the general public and the medical community.

135. The conspirators through their agent, Lanza of Met Life, made a concerted effort to discredit and to terminate the experiments of certain scientists who were developing data of profound importance for the area of public health in relation to the cancer hazard which existed for workers and bystanders in the asbestos industry.

136. As a direct and proximate result of Met Life's intentional publication of deceptive and misleading medical data and information, and other conspiratorial acts and omissions, Defendant caused asbestos to be used in the occupational settings from which Plaintiff breathed asbestos dust which resulted in Plaintiff's injuries. Defendant Met Life, through its agents and employees and officers, aided and abetted and gave substantial assistance to Johns-Manville and Raybestos-Manhattan in their tortious selling of asbestos products and voluntarily undertook a duty to warn the United States Public Health Service, the medical community, and others about the danger of asbestos and consciously and negligently misrepresented the dangers of asbestos to the United States Public Health Service, the medical community, and others, all to the ultimate harm of Plaintiff herein.

137. Defendant Met Life rendered substantial aid and assistance to the manufacturers of asbestos-containing products to which Plaintiff was exposed, and such assistance by Met Life aided and abetted the negligence and the marketing of unreasonably dangerous asbestos-containing products by such manufacturers which proximately caused Plaintiff's illness.

138. In both conducting tests and in publishing their alleged results, Met Life failed to exercise reasonable care to conduct or publish complete, adequate and accurate tests of the health effects of asbestos. Met Life also caused to be published intentionally false, misleading, inaccurate and deceptive information about the health effects of asbestos exposure.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

139. Plaintiff unwittingly and justifiably relied upon the thoroughness of Met Life's tests and information dissemination, the results of which Met Life published in leading medical journals.

140. As a direct and proximate contributing result of Met Life's failures to conduct or accurately publish adequate tests or disseminate accurate and truthful information, after undertaking to do so; (i) the risk of harm to Plaintiff from asbestos exposure was increased, and (ii) Plaintiff suffered the injuries described herein.

141. In failing to test fully and adequately for the adverse health effects from exposure to asbestos; in delaying the publication of such results; and in falsely editing such results as were obtained; in suppressing relevant medical inquiry and knowledge about those hazards to promote the sale and distribution of asbestos as a harmless product; and in collaborating with the other Defendants materially to understate the hazards of asbestos exposure, all for its own profit and gain, Met Life acted recklessly, wantonly, and in calculated disregard for the welfare of the general public, including Plaintiff.

142. Additionally and alternatively, as a direct and proximate result of Met Life's actions and omissions, Plaintiff was caused to remain ignorant of all the dangers of asbestos resulting in Plaintiff's wife, his co-workers, his family, and the general public to be unaware of the true and full dangers of asbestos, depriving Plaintiff of the opportunity to decide for himself whether he wanted to take the risk of being exposed to asbestos, denied Plaintiff the opportunity to take precautions against the dangers of asbestos and proximately caused Plaintiff's damages herein.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

143. During the relevant time period the Plaintiff was exposed to and did inhale and/or ingest asbestos dust, fibers, and particles, which dust, fibers, and particles came from the asbestos or asbestos-containing products which were mined, milled, manufactured, fabricated, supplied, and/or sold by the Johns Manville and/or Raybestos/Raymark.

144. Defendant, Met Life, together with Manville, Raymark and other persons and entities, known and unknown at times relevant hereto, engages in a conspiracy or concert of action to inflict injury on the Plaintiff, and to withhold, alter, suppress and misrepresent information about the health effects of asbestos exposure. One or more of said conspirators did cause tortious injury to the Plaintiff or his wife in the course of or as a consequence of the conspiracy of concert of action. At least the following enumerated acts were undertaken by the conspirators in the course of and in furtherance of the conspiracy or concert of action:

(a) In 1932, Met Life, through Lanza and others, assisted Manville with medical examinations of over 1,000 employees of Manville's factory in Manville, New Jersey. The report of this study shows that a large percentage of the employees suffered from asbestosis including employees not directly involved in the manufacturing process. This 1932 medical survey was not published in the medical literature and, therefore, was unavailable to scientists studying the issue of asbestos-related disease. Further collaboration between Manville and Met Life continued the cover-up.

(b) Beginning in approximately 1934, Manville, through its agents, Vandiver Brown and Attorney J.C. Hobart, suggested to Lanza, Associate Director of Met Life, which was then insurer of Manville and Raymark, that Lanza publish a study on asbestosis in which Lanza would affirmatively misrepresent material facts about the health consequences of asbestos exposure. This was accomplished through intentional deletion of Lanza's description of asbestosis as 'fatal' and through other selective editing that affirmatively misrepresent asbestosis as a disease process less serious than it actually is and was known to be. As a result, Lanza's study was published in the medical literature in this misleading fashion in 1935. The conspirators were motivated, in part, to effectuate this fraudulent

misrepresentation and fraudulent nondisclosure by the desire to influence proposed legislation to regulate asbestos exposure and to provide a defense in lawsuits involving Manville, Raymark, and Met Life as insurer. Furthermore, upon information and belief, it is alleged that Met Life, at all times relevant hereto, had substantial monetary investments in Manville and Raymark, among other asbestos product manufacturers and distributors.

(c) In 1936, the conspirators or some of them entered into an agreement with the Saranac Laboratories. Under this agreement, these conspirators acquired the power to decide what information Saranac could publish about asbestos disease and to control in what form such publications would occur. This agreement gave these conspirators power to affirmatively misrepresent the results of the work at Saranac, and also gave these conspirators power to material facts included in any study. On numerous occasions thereafter, the conspirators exercised their power to prevent Saranac scientists from disclosing material scientific data, resulting in numerous misstatements of fact being made at scientific meetings.

(d) By November 1948, or earlier, Manville, Met Life (acting through Lanza), Raymark, and others decided to exert their influence to materially alter and misrepresent material facts about the substance of research started by Dr. Leroy Gardner at the Saranac Laboratories beginning in 1936. Dr. Gardner's research involved carcinogenicity of asbestos in mice and also included an evaluation of the health effects of asbestos on humans with a critical review of the then-existing standards of dust exposure for asbestos and asbestos products.

(e) At a meeting on November 11, 1948, these conspirators and others intentionally and affirmatively determined that Dr. Gardner's work should be edited to specifically delete material facts about the cancer-causing propensities of asbestos and the health effects of asbestos on humans and they determined that only an edited version would be published. These conspirators thereby fraudulently misrepresented the risks of asbestos exposure to the public, in general, and to the class of persons exposed to asbestos, including the Plaintiff.

(f) As a direct result of influence exerted by the above described conspirators, Dr. Arthur Vorwald published Dr. Gardner's edited work in the Journal of Industrial Hygiene, AMA Archives of Industrial Hygiene and Occupational Health in 1951 in a form that stressed those portions of Dr. Gardner's work that the conspirators wished stressed, but which omitted references to human asbestosis and cancer, thereby fraudulently and affirmatively misrepresenting the extent of the risks. The conspirators affirmatively and deliberately disseminated this misleading Vorwald

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

publication to universities, libraries, government officials, agencies and others.

(g) Such action constituted a material affirmative misrepresentation of the material facts involved in Dr. Gardner's work and resulted in creating an appearance that inhalation of asbestos was a less serious health concern than Dr. Gardner's unedited work indicated.

(h) For many decades, Met Life, individually, jointly and in conspiracy with Manville and Raymark, have been in possession of medical and scientific data, literature, and test reports which clearly indicated that the inhalation of asbestos dust and fibers resulting from the ordinary foreseeable use of said asbestos-containing products and/or machinery requiring or calling for the use of asbestos or asbestos-containing products were unreasonably dangerous, hazardous, deleterious to human health, carcinogenic, and potentially deadly.

(i) Despite the medical and scientific data, literature and test reports possessed by and available to Met Life, individually and in conspiracy with Manville and Raymark, Fraudulently, willfully and maliciously withheld, concealed and suppressed said medical and scientific data, literature and test reports regarding the risks of asbestosis, cancer, mesothelioma, and other illnesses and diseases from Plaintiff who using and being exposed to Manville or Raymark asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products; caused to be released, published and disseminated medical and scientific data, literature and test reports containing information and statements regarding the risks of asbestosis, cancer, mesothelioma and other illnesses and diseases, which Metropolitan, Manville and Raymark knew were either incorrect, incomplete, outdated and misleading; distorted the results of medical examinations conducted upon workers who were using asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products and being exposed to the inhalation of asbestos dust and fibers by falsely stating and/or concealing the nature and extent of the harm which workers suffered; and failed to adequately warn the Plaintiff of the dangers to which he was exposed when they knew of the dangers.

(j) By the false and fraudulent representations, omissions, failures, and concealments set forth above, Met Life, Manville and Raymark, individually, jointly, and in conspiracy with each other, intended to induce the Plaintiff to rely upon said false and fraudulent representations, omissions, failures, and concealments, to continue to expose themselves to the dangers inherent in the use of and exposure to their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products. Said

misrepresentations were false, incomplete, and misleading and constitute negligent misrepresentations as defined by Sections 311 and 522 of the Restatement (Second) of Torts.

145. Plaintiff reasonably and in good faith relied upon the false and fraudulent representations, omissions, failures, and concealments made by Met Life, Manville, and Raymark regarding the nature of their asbestos-containing products and/or machinery requiring or calling for the use of asbestos and/or asbestos-containing products.

146. As a direct and proximate result of the conspiracy and concert of action between Met Life, Manville and Raymark, the Plaintiff has been deprived of the opportunity of informed free choice and connection with the use of and exposure to Manville and Raymark's asbestos and asbestos-containing products, and therefore continued to work with and be exposed to the co-conspirator corporation's asbestos and asbestos-containing products and as a result brought home on his clothes, hair, shoes, and in his case asbestos dust or fibers contracted asbestos-related diseases and other conditions, and/or aggravated pre-existing conditions, as a result of which the Plaintiff has been damaged.

FOR A NINTH CAUSE OF ACTION
(Loss of Consortium)

For a Seventh Distinct Cause of Action For Loss of Consortium, Evelyn Kay Robbins Crawford Complains of Defendants, and Alleges As Follows:

147. Plaintiffs incorporate by reference as though fully set forth herein, each and every paragraph of the General Allegations and the First through Fifth Causes of Action.

148. Plaintiffs Jerry Howard Crawford and Evelyn Kay Robbins Crawford were married on May 10, 1970, and at all times relevant to their action were husband and wife.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

149. Prior to his injuries as alleged, Plaintiff Jerry Howard Crawford was able and did perform his spousal duties. As a proximate result thereof, subsequent to the injuries, Plaintiff Jerry Howard Crawford has been unable to perform his spousal duties and the work and service usually performed in the care, maintenance and management of the family home. As a proximate result thereof, Plaintiff Evelyn Kay Robbins Crawford was deprived of the consortium of her spouse, including the performance of duties, all to Plaintiffs' damages, in an amount presently unknown to Plaintiffs but which will be proven at time of trial.

150. As a direct and proximate result of the acts of Defendants and/or their "alternate entities" and the severe injuries caused to Plaintiff Jerry Howard Crawford as set forth herein, Plaintiff's spouse and co-Plaintiff Evelyn Kay Robbins Crawford suffered loss of consortium, including but not by way of limitation, loss of services, marital relations, society, comfort, companionship, love and affection of her spouse, and has suffered severe mental and emotional distress and general nervousness.

WHEREFORE, Plaintiffs pray judgment, joint and several, against Defendants and/or their "alternate entities" in an amount to be proved at trial, as follows:

1. For Plaintiffs' actual damages according to proof, including Plaintiff's pain & suffering, as well as medical bills;

2. For loss of earnings according to proof;

3. For loss of care, comfort and society;

4. For punitive damages according to proof;

5. For plaintiffs' cost of suit herein;

6. For damages for fraudulent misrepresentation according to proof; and

7. For such other and further relief as the Court may deem just and proper, including costs and prejudgment interest as provided by South Carolina law.

Respectfully submitted,

DEAN OMAR BRANHAM, LLP

s/ *Jonathan M. Holder*
Jonathan M. Holder (SC Bar No. 77935)
Jessica M. Dean (TX Bar No. 24025520)
To be Admitted *Pro Hac Vice*
302 N. Market Street, Ste. 300
Dallas, TX 75202
(214) 722-5990
jholder@dobllp.com
jdean@dobllp.com
Other email: spepin@dobllp.com

KASSEL MCVEY ATTORNEYS AT LAW
Theile B. McVey (SC Bar No. 16682)
1330 Laurel Street
Columbia, South Carolina 29202
(803) 256-4242
tmcvey@kassellaw.com
Other email: emoultrie@kassellaw.com

ATTORNEYS FOR PLAINTIFFS

December 4, 2017
Spartanburg, South Carolina.

ELECTRONICALLY FILED - 2017 Dec 04 5:29 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	Case No.: 2017-CP-42-04429
	)	
JERRY HOWARD CRAWFORD and EVELYN KAY CRAWFORD,	)	**ANSWER OF DEFENDANT COVIL CORPORATION TO PLAINTIFFS' COMPLAINT**
Plaintiffs,	)	
	)	
v.	)	
	)	
CELANESE CORPORATION, et al.	)	
	)	
Defendants,	)	

Defendant Covil Corporation (hereinafter "Covil"), answering the Plaintiffs' Complaint ("the Complaint"), would respectfully allege and show unto the Court as follows:

FOR A FIRST DEFENSE

1. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraphs 1, 2, 3, and 4 of the Complaint and, therefore, denies them.

2. Covil denies the allegations of paragraph 5 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 5 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

3. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraph 6 of the Complaint and, therefore, denies them.

4. Covil denies the allegations of paragraph 7 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 7 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

5. In response to the allegations of paragraph 8 of the Complaint, Covil admits that it was incorporated under the laws of the State of South Carolina and conducted business in the State of South Carolina. To the extent the allegations of paragraph 8 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

6. In response to the allegations of paragraph 9 of the Complaint, Covil admits that inhalation of some types of asbestos fibers can cause mesothelioma in some individuals under certain circumstances. Covil denies the remaining allegations of paragraph 9 of the Complaint.

7. Covil denies the allegations of paragraphs 10, 11, and 12 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 10, 11, and 12 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

8. The disclaimer contained in paragraph 13 does not require a response from Covil.

9. In response to the allegations of paragraph 14 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 13 of the Complaint.

10. In response to the allegations of paragraph 15 of the Complaint, Covil alleges that it was an insulation contractor and wholesaler of insulation materials which purchased from time to time insulation materials containing asbestos from numerous manufacturers and either sold them to contractors or applied them itself. Covil denies the remaining allegations of paragraph 15 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 15 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truth of those allegations and, therefore, denies them.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

11. Covil denies the allegations of paragraphs 16, 17, 18, 19, and 20 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 16, 17, 18, 19, and 20 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

12. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraph 21 of the Complaint and, therefore, denies them.

13. Covil denies the allegations of paragraphs 22, 23, 24, 25, 26, 27, 28, and 29 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 22, 23, 24, 25, 26, 27, 28, and 29 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

14. In response to the allegations of paragraph 30 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 29 of the Complaint.

15. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraph 31 of the Complaint and, therefore, denies them.

16. Covil denies the allegations of paragraphs 32 through 45 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 32 through 45 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

17. In response to the allegations of paragraph 46 of the Complaint, Covil alleges that it was an insulation contractor and wholesaler of insulation materials which purchased from time to time insulation materials containing asbestos from numerous manufacturers and either sold them to contractors or applied them itself. Covil denies the remaining allegations of paragraph

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

46 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 46 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truth of those allegations and, therefore, denies them.

18. In response to the allegations of paragraph 47 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 46 of the Complaint.

19. Covil denies the allegations of paragraphs 48, 49, 50, 51, 52, and 53 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 48, 49, 50, 51, 52, and 53 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

20. In response to the allegations of paragraph 54 of the Complaint, Covil admits that inhalation of some types of asbestos fibers can cause mesothelioma in some individuals under certain circumstances. However, Covil denies the allegations of paragraph 54 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 54 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

21. Covil denies the allegations of paragraphs 55 through 63 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 55 through 63 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

22. In response to the allegations of paragraph 64 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 63 of the Complaint.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

23. Covil denies the allegations of paragraphs 65, 66, 67, 68, 69, 70, and 71 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 65, 66, 67, 68, 69, 70, and 71 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

24. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraph 72 of the Complaint and, therefore, denies them.

25. Covil denies the allegations of paragraph 73 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 73 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

26. Paragraphs 74 and 75 of the Complaint contain legal conclusions to which no response is required. To the extent a response is required, Covil denies those allegations to the extent they could be construed to relate to it.

27. Covil denies the allegations of paragraphs 76, 77, and 78 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 76, 77, and 78 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

28. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraphs 79 and 80 of the Complaint and, therefore, denies them.

29. In response to the allegations of paragraph 81 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 80 of the Complaint.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

30. Covil denies the allegations of paragraphs 82, 83, and 84 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 82, 83, and 84 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

31. In response to the allegations of paragraph 85 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 84 of the Complaint.

32. Covil denies the allegations of paragraphs 86, 87, and 88 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 86, 87, and 88 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

33. In response to the allegations of paragraph 89 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 88 of the Complaint.

34. The allegations of paragraphs 90 through 125 are directed against another defendant, and, therefore, no response is required from Covil. To the extent a response is required, Covil denies the allegations of paragraphs 90 through 125 to the extent that they could be construed to relate to it.

35. Covil denies the allegations of paragraphs 126, 127, and 128 of the Complaint to the extent they relate to it. To the extent the allegations of paragraphs 126, 127, and 128 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

36. The allegations of paragraphs 129 through 131 are directed against another defendant, and, therefore, no response is required from Covil. To the extent a response is

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

required, Covil denies the allegations of paragraphs 129 through 131 to the extent that they could be construed to relate to it.

37. In response to the allegations of paragraph 132 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 131 of the Complaint.

38. The allegations of paragraphs 133 through 146 are directed against another defendant, and, therefore, no response is required from Covil. To the extent a response is required, Covil denies the allegations of paragraphs 133 through 146 to the extent that they could be construed to relate to it.

39. In response to the allegations of paragraph 147 of the Complaint, Covil incorporates herein by reference its responses to paragraphs 1 through 146 of the Complaint.

40. Covil is without sufficient knowledge or information to form a belief as to the truthfulness of the allegations of paragraphs 148 and 149 of the Complaint and, therefore, denies them.

41. Covil denies the allegations of paragraph 150 of the Complaint to the extent they relate to it. To the extent the allegations of paragraph 150 are directed against or pertain to parties other than Covil, Covil is without sufficient information to form a belief as to the truthfulness of those allegations and, therefore, denies them.

42. In response to the prayer for damages, Covil denies it is liable to Plaintiffs under any theory or cause of action for the damages and/or other relief requested therein.

43. Covil denies each and every allegation of the Complaint not specifically admitted, explained, or modified hereinabove.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A SECOND AFFIRMATIVE DEFENSE

44. Upon information and belief, the Court lacks jurisdiction over Covil as a result of improper, and/or lack of, service of process; lack of subject matter jurisdiction; and/or lack of personal jurisdiction.

FOR A THIRD AFFIRMATIVE DEFENSE

45. The Plaintiffs' Complaint fails to state facts sufficient to constitute a claim, and, accordingly, it should be dismissed pursuant to Rule 12(b)(6) of the South Carolina Rules of Civil Procedure.

FOR A FOURTH AFFIRMATIVE DEFENSE

46. Covil is a dissolved corporation and therefore lacks the capacity to sue or be sued.

FOR A FIFTH AFFIRMATIVE DEFENSE

47. Upon information and belief, there is a lack of joinder of one or more parties who should or must be joined; without the joinder of these proper parties, complete relief cannot be accorded among those already made parties to this action.

FOR A SIXTH AFFIRMATIVE DEFENSE

48. Upon information and belief, the claims set forth in the Complaint are barred by the applicable statutes of limitations and/or repose in this state or other states as may be applicable.

FOR A SEVENTH AFFIRMATIVE DEFENSE

49. Covil alleges that the Plaintiffs' damages were the direct and proximate result of the negligent, reckless, willful, and wanton conduct of the Plaintiff, which combined and concurred with any negligence or recklessness on the part of Covil, which is specifically denied and admitted solely for the purpose of this defense and no other, and the alleged damages of the Plaintiffs would not have occurred if the Plaintiff had not been guilty of such negligence,

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

recklessness, willfulness, or wantonness. The Complaint is barred to the extent that the Plaintiff's contributory negligence and recklessness is more than 50% of the total negligence in this case. To the extent that the Plaintiff's contributory negligence and recklessness is 50% or less of the total negligence in this case, which is denied and admitted solely for the purpose of this defense, the Plaintiffs' recovery should be reduced by the percentage of its contributory negligence and recklessness.

FOR AN EIGHTH AFFIRMATIVE DEFENSE

50. The claims set forth in the Complaint are barred to the extent there is another action pending between the same parties for the same claims.

FOR A NINTH AFFIRMATIVE DEFENSE

51. Upon information and belief, the Complaint should be dismissed and/or is not subject to trial for its failure to comply with the requirements of Section 44-135-10 *et seq.*, of the South Carolina Code of Laws, also known as the "Asbestos and Silica Claims Procedure Act of 2006."

FOR A TENTH AFFIRMATIVE DEFENSE

52. Upon information and belief, Plaintiffs' claims are barred or reduced by the doctrines of res judicata, waiver, release, laches, collateral estoppel, and/or conditions precedent or subsequent.

FOR AN ELEVENTH AFFIRMATIVE DEFENSE

53. Plaintiffs' claims are barred or reduced by the applicable provisions of the Worker's Compensation Act, whether of this state or another.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A TWELFTH AFFIRMATIVE DEFENSE

54. By virtue of the doctrine of judicial estoppel, the Plaintiffs are precluded from taking a position inconsistent with one taken with respect to the same facts in earlier litigation, if any, and, upon information and belief, are, therefore, precluded from alleging the material facts necessary to state a cause of action against Covil.

FOR A THIRTEENTH AFFIRMATIVE DEFENSE

55. Upon information and belief, venue is improper in this action. Covil reserves its right to move for dismissal and/or transfer of the action based on improper and/or inconvenient venue and further reserves its right to seek application of the law of the appropriate venue on all issues.

FOR A FOURTEENTH AFFIRMATIVE DEFENSE

56. Covil would show that, among other things, Plaintiffs' claim for punitive damages is barred, reduced, bifurcated, capped, or otherwise impacted by the South Carolina Fairness in Civil Justice Act of 2011 and/or similar and/or related state statutes and limitations.

FOR A FIFTEENTH AFFIRMATIVE DEFENSE

57. The alleged injuries to the Plaintiffs are barred by Section 15-73-10 *et seq.*, of the South Carolina Code of Laws; therefore, the Plaintiffs are prohibited by law from asserting a cause of action based on strict liability for either actual or punitive damages.

FOR A SIXTEENTH AFFIRMATIVE DEFENSE

58. Covil would show that any product allegedly distributed by, or for which Covil is alleged to have been liable, was altered or changed in some manner after it left the custody and possession of Covil.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A SEVENTEENTH AFFIRMATIVE DEFENSE

59. There has been no concert of action between Covil and any of the other named Defendants. The Defendants are not joint tortfeasors, and, therefore, Covil may not be held jointly and severally liable with the other named Defendants. Accordingly, Covil asserts it is entitled to the benefit of the provisions set forth in S.C. Code §15-38-15 in this action.

FOR AN EIGHTEENTH AFFIRMATIVE DEFENSE

60. To the extent that the Plaintiffs have received payment in satisfaction of any of the alleged injuries and/or claims against Covil, the Plaintiffs' Complaint in each and every count and cause of action alleged therein is barred or reduced by the defenses of payment and accord and satisfaction.

FOR A NINETEENTH AFFIRMATIVE DEFENSE

61. There are no allegations against Covil stated with sufficient particularity to constitute a cause of action for fraud, fraudulent concealment, concert of action, conspiracy, or the like meeting the requirement of Rule 9(b) of the South Carolina Rules of Civil Procedure.

FOR A TWENTIETH AFFIRMATIVE DEFENSE

62. Upon information and belief, Plaintiff was employed by a knowledgeable and sophisticated user/employer, and any duty Covil may have had to warn Plaintiff of any potential dangers incident to use of Covil's products, which duty is denied, was discharged by the employer's intervening duty to give Plaintiff warning.

FOR A TWENTY-FIRST AFFIRMATIVEDEFENSE

63. Plaintiffs' claims are barred to the extent any products for which Covil is or may be responsible were sold to a "learned intermediary" and/or "sophisticated user" or other similar purchaser and/or Defendant was a "bulk supplier."

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A TWENTY-SECOND AFFIRMATIVE DEFENSE

64. Any oral warranties upon which Plaintiffs allege to have relied are inadmissible and unavailable because of the provisions of the applicable Statute of Frauds.

FOR A TWENTY-THIRD AFFIRMATIVE DEFENSE

65. Covil alleges that, upon information and belief, the Plaintiff had actual knowledge of and voluntarily assumed the risk incident to Plaintiff's use and exposure to asbestos or the products and processes involving the use of asbestos or asbestos-containing materials which were known to him to be dangerous.

FOR A TWENTY-FOURTH AFFIRMATIVE DEFENSE

66. Covil alleges that, upon information and belief, the Plaintiff failed to properly use the product or products in question, abused the product or products, and/or subjected them to abnormal use at the time or times and places alleged in the Complaint.

FOR A TWENTY-FIFTH AFFIRMATIVE DEFENSE

67. Covil alleges that if the Plaintiff used the product or products for which Covil is alleged to be responsible, upon information and belief, the same was used for a purpose not intended by Covil and contrary to any instructions or normal method of using the same.

FOR A TWENTY-SIXTH AFFIRMATIVE DEFENSE

68. Covil alleges that if the Plaintiffs sustained any injuries or damages as set forth in the Complaint, which is denied, the same were due to and caused by the negligence, recklessness, willfulness, and wantonness of others, and not Covil.

FOR A TWENTY-SEVENTH AFFIRMATIVE DEFENSE

69. Covil would show that even if Plaintiffs have suffered injuries as described by Plaintiffs, and the same are admitted for the purposes of this defense only, then said injuries were

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

caused by the acts or omissions of third parties, including but not limited to the actions of unions, employers, other manufacturers, distributors, and others, and that these acts or omissions of third parties acted as a direct and proximate cause of the Plaintiffs' injuries in such a way as to constitute a supervening or intervening cause ending all liability on the part of Covil.

FOR A TWENTY-EIGHTH AFFIRMATIVE DEFENSE

70. If Plaintiffs sustained the injuries and/or damages alleged, which is specifically denied, then, upon information and belief, such injuries and/or damages were proximately caused by the acts and/or omissions of the Plaintiff's employers with respect to the maintenance of healthy and safe work sites and environments, which were under the exclusive control and possession of the employer(s).

FOR A TWENTY-NINTH AFFIRMATIVE DEFENSE

71. Covil alleges that if the Plaintiff sustained injuries as a result of exposure to asbestos or asbestos-containing products, which is denied, then such injuries were or may have been due to exposures to products of manufacturers not named as Defendants in this action, including but not limited to product manufacturers which have taken advantage of the protections of the bankruptcy provisions of the United States Code.

FOR A THIRTIETH AFFIRMATIVE DEFENSE

72. If the Plaintiff was exposed to any products for which Covil is alleged to have been responsible, said products at the time were manufactured in conformity with applicable federal and state regulations, standards, specifications and laws; consequently, recovery by the Plaintiffs herein is barred.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A THIRTY-FIRST AFFIRMATIVE DEFENSE

73. If it should be proven that the Plaintiff, while working for or otherwise associated with the United States Government, worked with or around asbestos-containing products for which Covil is alleged to have been responsible, such materials, upon information and belief, were made in compliance with military specifications and contract requirements for a specific intended use by the United States Government.

FOR A THIRTY-SECOND AFFIRMATIVE DEFENSE

74. If any products for which Covil is alleged to have been responsible and which give rise to Plaintiffs' claims herein were designed and manufactured pursuant to and in accordance with the standards of, or specifications mandated by, the United States Government and its agencies, the knowledge of the United States Government and its agencies of any possible health hazards from use of such products was equal or superior to that of Covil, and by reason thereof Covil is entitled to assume any immunity from liability which exists in favor of the United States Government or its agencies and/or to assert the government contractor defense.

FOR A THIRTY-THIRD AFFIRMATIVE DEFENSE

75. In the event it is determined that any product for which Covil is alleged to have been responsible was dangerous, which danger is specifically denied, Covil was unaware of such danger as it would apply in any conceivable use of such products by the Plaintiff; furthermore, the discovery of such danger was beyond the state of the art at the time such product or products were manufactured, distributed, sold, used, and/or warnings provided. Further, such products were manufactured, distributed, sold, and used in conformity with the state of the art and/or prevailing industry standards at the time.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

FOR A THIRTY-FOURTH AFFIRMATIVE DEFENSE

76. Upon information and belief, Plaintiffs have received payments from and granted releases to other parties, including but not limited to other parties to this action and other non-parties against whom Plaintiffs have claimed liability in tort for the same injury for which Plaintiffs claim Covil has liability. Covil is entitled to set off of the greater of the amount stipulated to in such release or the amount of consideration paid for such a release.

FOR A THIRTY-FIFTH AFFIRMATIVE DEFENSE

77. Upon information and belief, Plaintiffs have failed, neglected, and/or refused to mitigate their damages, if any, and therefore, Plaintiffs are barred from recovery of those damages which could have been avoided by the exercise of due diligence.

FOR A THIRTY-SIXTH AFFIRMATIVE DEFENSE

78. The Complaint fails to set forth a claim for punitive damages upon which relief may be granted.

FOR A THIRTY-SEVENTH AFFIRMATIVE DEFENSE

79. The products for which Covil is alleged to have been responsible and/or which were sold and/or distributed by Covil were at all times reasonably fit and suitable for the purposes for which they were sold, and Covil denies that such products were in any way defective for the use for which they were sold.

FOR A THIRTY-EIGHTH AFFIRMATIVE DEFENSE

80. To the extent the Complaint asserts a demand for punitive damages, Covil specifically incorporates by reference any and all standards of limitations regarding the determination and/or enforceability of punitive damage awards that arose in the decisions of *BMW of North America, Inc. v. Gore*, 517 U.S. 559 (1966); *Cooper Industries, Inc. v. Leatherman Tool*

Group, Inc., 532 U.S. 424 (2001); and *State Farm Mutual Automobile Insurance Co. v. Campbell*, 538 U.S. 408 (2003).

FOR A THIRTY-NINTH AFFIRMATIVE DEFENSE

81. To the extent that the Complaint seeks punitive damages, Covil affirmatively pleads the following in regard to punitive damages:

(a) An award of punitive damages in this civil action would amount to a deprivation of property without due process of law in violation of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(b) An award of punitive damages in this civil action would violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(c) The criteria used for determining whether and in what amount punitive damages may be awarded are impermissible, vague, imprecise, and inconsistent and, therefore, violate the due process provisions of the Fifth and Fourteenth Amendments to the United States Constitution and the corresponding provisions of the applicable state Constitution;

(d) An award of punitive damages in this civil action would amount to an excessive fine in violation of the due process provisions of the Eighth Amendment to the United States Constitution and the corresponding provisions of the applicable state Constitution; and

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(e) Plaintiffs' claim for punitive damages is barred by the "double jeopardy" clause of the Fifth Amendment to the United States Constitution, as applied to the states through the Fourteenth Amendment.

FOR A FORTIETH AFFIRMATIVE DEFENSE

82. Covil reserves the right to allege additional facts and circumstances in support of its defenses as these facts become available.

FOR A FORTY-FIRST AFFIRMATIVE DEFENSE

83. Covil incorporates by reference herein, as if fully set forth, all defenses, both affirmative and otherwise, raised, pleaded or asserted by all other answering Defendants.

ANSWER TO CROSS-CLAIMS

Covil, answering any and all Cross-Claims which may already have been asserted or which may be asserted in the future against Covil by any Co-Defendants and/or Third-Party Defendants, says:

1. In defense of any and all cross-claims, Covil incorporates herein as if restated fully all responses and defenses which it has asserted above or may assert in response to the allegations contained in the Complaint.

2. The allegations against Covil in any and all cross-claims are denied.

3. Covil denies liability with respect to any and all cross-claims.

4. Covil denies that it has any indemnity or contribution liability to any other defendant or Third-Party Defendant.

RESERVATION OF CROSS-CLAIMS

All cross-claims for contribution and for indemnity by Covil against all Co-Defendants and Third-Party Defendants are hereby reserved and implied.

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

JURY DEMAND

Covil requests trial by jury on all issues so triable.

WHEREFORE, Covil prays the Court for the following relief:

1. That the Complaint be dismissed with prejudice as to Covil;

2. That any and all Cross-Claims against Covil be dismissed with prejudice;

3. That the Plaintiffs and other Defendants and/or Third-Party Defendants have and recover nothing from Covil;

4. That the costs of this action be taxed against the Plaintiffs and/or other Defendants and/or Third-Party Defendants;

5. That any judgment against Covil be reduced by any amount that any employer of the Plaintiffs, their successors or assigns, would be entitled to receive therefrom by way of subrogation;

6. That there be a trial by jury on all issues of fact; and

7. For such other and further relief as the Court deems just and proper.

Respectfully submitted this, the 5th day of January, 2018.

(signatures on following page)

ELECTRONICALLY FILED - 2018 Jan 05 11:02 AM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

GALLIVAN, WHITE & BOYD, P.A.

s/ Allyson R. Twilley

Daniel B. White, Esq. (S.C. Bar No. 6070)
Ronald G. Tate, Jr., Esq. (S.C. Bar. No. 5475)
Allyson R. Twilley, Esq. (S.C. Bar No. 101884)
55 Beattie Place, Suite 1200 (29601)
P. O. Box 10589
Greenville, South Carolina 29603
dwhite@gwblawfirm.com
rtate@gwblawfirm.com
atwilley@gwblawfirm.com
Tel: (864) 271-9580
Fax: (864) 271-7502

Attorneys for Defendant Covil Corporation

The defendant, Covil Corporation, demands a trial by jury.

s/ Allyson R. Twilley

Allyson R. Twilley, Esq. (S.C. Bar No. 101884)

Greenville, South Carolina
January 5, 2018

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	SEVENTH JUDICIAL CIRCUIT
JERRY HOWARD CRAWFORD and **EVELYN KAY CRAWFORD**	)	**C/A NO. 2017-CP-42-04429**
Plaintiffs,	)	
v.	)	**PLAINTIFFS' MOTION FOR SANCTIONS AGAINST DEFENDANT COVIL CORPORATION FOR SPOLIATION OF EVIDENCE AND DISCOVERY ABUSE**
CELANESE CORPORATION, et al.,	)	
Defendants.	)	

Plaintiffs, Jerry Howard Crawford and Evelyn Kay Crawford, by and through their undersigned counsel, hereby move the Court to sanction Defendant Covil Corporation for spoliation of evidence and for its abuse of the discovery process. In support, Plaintiffs would show the Court as follows:

INTRODUCTION

Covil has engaged in a pattern of misconduct that warrants sanctions. First, it has misrepresented to South Carolina plaintiffs and their counsel that all documents relevant to insulation business were destroyed in a fire at Covil's headquarters in 1973. Plaintiffs have learned that this is untrue and that all documents were not burned in the fire. Some documents survived the fire but were thereafter intentionally destroyed. This willful destruction was in the face of pending litigation from those injured by Covil's supply and installation of asbestos insulation. Because Covil has spoliated crucial evidence vital to the Plaintiffs' ability to prove their case against Covil, Plaintiffs are seeking evidentiary sanctions.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Plaintiffs request the following relief for Covil's spoliation of evidence: (1) that Plaintiffs be allowed to introduce evidence of Covil's destruction of documents and misrepresentations about the circumstances of the destruction; (2) that the Court instruct the jury that it can draw a negative adverse inference (*i.e.*, spoliation presumption) from Defendant's acts that Plaintiff Jerry Crawford was exposed to asbestos insulation supplied and installed by Covil at Celanese between 1970-74; (3) that Covil not be allowed to introduce expert testimony at trial regarding either the missing or destroyed evidence as a sanction; and (4) that the Court impose additional and other sanctions as the Court may deem necessary in order to ensure Plaintiffs receive a fair trial in this case.

Sanctions are also warranted under Rule 37, SCRCP. Covil has abused the discovery process in deliberately failing to respond to Plaintiffs' discovery requests and failing to properly prepare its corporate representative for deposition. In addition to sanctions, Plaintiff requests that the Court issue an Order compelling Covil to produce the prior testimony list of Covil's 30(b)(6) witness, Robert Glenn, CIH, MPH, as well as a witness who is properly prepared to testify.

FACTUAL BACKGROUND

I. Covil's Spoliation of Evidence

In February 2018, Covil's corporate representative, James Covil, was deposed in *Howe v. Air and Liquid Systems Corporation, et al.* Mr. Covil testified that all relevant records to Covil's insulation business were destroyed in May 1973 in a fire at the warehouse where Covil's offices were located. **Ex. 1**, Covil Depo., 2/7/18, at 21:23-22:14. This was reiterated several times during the deposition: "Before '73, when we had the fire, there would be no files, no paperwork at all." *Id.* at 120:24-25. Again, "[w]e found no records pertaining to that back in the '60s, because if they were, they were all burned up in the fire." *Id.* at 203:11-13. Mr. Covil claimed that after the fire,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

"they had to rebuild the whole warehouse from the front offices, which were brick and mortar, all the way back." *Id.* at 124:13-25. Significantly, Mr. Covil, who is the founder's son, was not employed by the company full time until 1974 and has no substantive information about the company's business before that time. *Id.* at 12:25-14:4, 22:7-19.

Mr. Covil's claims about the fire were obviously exaggerated, even at the time of his deposition in *Howe*. While he claimed that the fire "wiped out every bit of our inventory in our warehouse," *id.* at 124:5-6, a contemporaneous memorandum stated that it was just the "bulk" of Covil's insulation inventory that was destroyed. *Id.* at 124:13-25; **Ex. 2**. And while Mr. Covil claimed that the company never sold asbestos insulation after the fire because it had all been incinerated, at least some records that survived the fire indicated that Covil did, in fact, continue to sell and install asbestos insulation even after May 1973. *Id.* at 127:10-18; **Ex. 3**. Records maintained by companies utilizing Covil also evidence of the continued use of asbestos insulation after the claim that they stopped. *See, e.g.*, **Ex. 4**, Covil Depo., 3/27/18, at 107:1-108:1; **Ex. 5**, Invoices for Sale of Thermobestos to Firestone in 1974.

Plaintiffs have become aware of testimony that completely contradicts Mr. Covil's claims about the fire. In 2004, Covil employee Machen Lee Carpenter testified as a co-worker in an asbestos lawsuit. **Ex. 6**, Carpenter Depo., 5/27/04. Mr. Carpenter went to work for Covil in February 1967, straight out of his four-year service in the U.S. Marine Corp. *Id.* at 10:22-11:2. He worked for Covil from 1967 to 1991 in a variety of positions, including warehouse foreman, foreman of the fabrication shop, purchaser, operations manager, and vice president of operations. *Id.* at 11:3-16, 13:20-14:11, 30:23-31:23. He verified that there was a fire in the early 1970s at Covil's corporate headquarters. *Id.* at 29:20-22, 65:18-20. The fire did not destroy all Covil documents, however:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

> Q. Because of the fire or some other fire? I'm trying to find out there's any -- is there a repository of the information that –
>
> A. No, that's not right. It wasn't -- **the front office complex did not burn down. It was protected by a fire wall. We kept all of our documentation in a vault.** Now where is it today? What is the limitation on the time frame in which you have to keep it? And I would say it would be seven years or less, so I'd say it's history.

Id. at 103:16-25 (emphasis added). Rather than being destroyed by a fire, at least some of the documents were destroyed pursuant to a document retention policy. *Id.*

Covil first received notice of an asbestos-related claim against it in 1972. **Ex. 7**, Covil Responses to Interrogatories, 2/5/18, *Howe v. Air & Liquid Systems, et al.*, at 22. As of 1977, Covil already had dozens of lawsuits and workers' compensation claims pending against it for asbestos-related diseases. Covil Depo., at 42:20-43:16; **Ex. 8**.

II. Covil's Discovery Misconduct

Plaintiffs first served Covil with notice of Plaintiff's intention to depose its corporate representative on April 18, 2018. **Ex. 9**, Plaintiff's 30(B)(6) Notice of Videotaped Deposition of Defendant Covil Corporation. Attached to the original notice, Plaintiff identified a variety of topics to be discussed at the deposition.

At the request of Covil's counsel, Plaintiffs agreed to postpone the deposition until Monday July 9, 2018. After issues that Covil had with their prior representative, James Covil, Covil hired new counsel and offered a new witness as their 30(b)(6) representative. In order to properly educate their witness, Covil asked Plaintiffs to push back the deposition. Plaintiffs in good faith believed Covil was attempting to comply with their 30(b)(6) requirement and agreed to give them the time requested to do that. As a result, the deposition took place 48 hours before this hearing.

Covil's new corporate representative, Robert Glenn, was deposed on July 9, 2018. **Ex. 10**, Videotaped Deposition Under Oral Examination of Robert Glenn, CIH, MPH (Deposition of Covil

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Corporation, by Aaron Chapman), 7/9/18, ROUGH DRAFT. It became immediately clear that Mr. Glenn was unprepared for the deposition and that he and/or Covil had done little to no follow up on the requested information since the *Howe* case. Although Plaintiffs agreed to give Covil more time in anticipation of their compliance, Mr. Glenn did not start preparing for his role as corporate representative until two weeks ago. *Id*. at 20. In fact, until two weeks ago Mr. Glenn had never even heard of Covil Insulation. *Id*. When asked the basic question of if he was familiar with Covil and its history, Mr. Glenn replied, "I've been getting more familiar with them in the last two weeks, yes." *Id*. at 21. In order to prepare for this deposition and his role at Covil's 30(b)(6) representative Mr. Glenn: 1) reviewed the depositions of Palmer and James Covil and exhibits,[1] 2) looked at about 100 pages of Covil documents out of 25,000 which he did not personally find,[2] 3) flipped through the deposition testimony of Russell Johnson,[3] 4) read the testimony of Daniel's corporate representative taken in this case,[4] and 5) reviewed a summary of Mr. Crawford's testimony.[5] He did not review the other 24,900 pages of Covil documents, nor could he say what was contained within them. *See e.g., id.* at 23, 51-52, 71. He was even unable to describe the 100 pages that he did review. *Id*. at 51. He wasn't even sure if "Celanese Spartanburg" was used as a search term in trying to locate documents that would educate him about Covil's work or supply to Celanese Spartanburg. *Id*. at 24. At one-point Mr. Glenn described a second set of documents in the possession of Covil's counsel but was unable to say if they are the same or different than the 25,000 documents that he didn't review. *Id*. at 166-169. Further, he did not even attempt to speak to James

[1] *Id*. at 22.
[2] *Id*. at 22 -23.
[3] *Id*. at 203.
[4] *Id*. at 204.
[5] *Id*. at 22-23.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Covil, the prior 30(B)(6) representative and former Vice President of Covil Insulation, in attempting to learn about Covil. *Id*. at 57.

During the deposition, it was revealed that Mr. Glenn was not prepared to discuss a variety of topics. Mr. Glenn said he "did not know" or was otherwise unprepared to testify at least 103 times. It was also clear that Covil made **no** attempt, let alone a reasonable attempt, to find out the answers to these questions. Some of those include:

- What percentage of their products were asbestos containing versus non-asbestos containing;
- Safety procedures Covil used;
- Why Mr. Glenn was chosen as the corporate representative;
- What documents would've been saved from the fire in 1973;
- If accounting records would've been saved from the fire;
- Why he didn't speak with Jim Covil;
- Efforts to locate other individuals with knowledge about Covil;
- If Covil was ever purchased by another entity;
- What warnings manufactures Covil bought from would provide related to asbestos on their products;
- Whether Covil returned insulation products to the manufacturers that did not have the proper warnings on it;
- Whether Covil had any asbestos warning pre-OSHA on its asbestos containing products
- Whether Covil had any asbestos warning post-OSHA on its asbestos containing products
- If Covil has sales documents from 1973-1974 post its warehouse fire;
- Whether training of Covil employees about the hazards of asbestos took place;
- When training on asbestos hazards started;
- How long or how in-depth training relating to asbestos hazards was;
- How asbestos containing insulation was treated such that it did not allegedly release dust;
- The last year Covil sold an asbestos containing product;
- How Covil determined it was not their responsibility to warn about the hazards of asbestos on the asbestos containing products it supplied;
- If a lawyer was consulted pre-OSHA to determine whether or not Covil had a responsibility to warn about asbestos
- If a lawyer was consulted post-OSHA to determine whether or not Covil had a responsibility to warn about asbestos
- Palmer Covil's basis for his testimony, which Mr. Glenn relied heavily;
- Whether documents destroyed by fire had information relevant to this lawsuit;
- Whether documents destroyed by the fire had information related to who Covil sold asbestos containing insulation to;
- Whether documents that survived the fire had information related to who Covil sold asbestos containing insulation to;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

- What documents survived the fire;
- Where the documents that survived the fire are located;
- Whether or not the documents that survived the fire were destroyed at some later point;
- If Covil has any documents that survived the fire in 1973;
- If Covil has looked for documents described by Palmer Covil that survived the fire;
- The content of the documents in the warehouse that survived the fire;
- The content of the documents in the vault that survived the fire;
- Whether or not personnel records exist, pre or post fire;
- Complaints about asbestos from Covil employees;
- What efforts Covil has made to determine whether or not Covil places asbestos containing insulation in boxes marked asbestos free as described by Dwaine Waters;
- Any attempts made to find records from other sources, including other defendants;
- How big the vault that housed documents that survived the fire was;
- Investigate at all whether or not documents survived the fire;
- Whether the state of North Carolina still has records related to asbestos submitted to it by Covil;
- What post-1973 fire docs exist;
- Whether or not Covil has 100% of their documents post 1973 fire;
- Whether or not the 24,000 pages described by Mr. Glenn are the entirety of documents generated by Covil from 1973 to its closing in 1991;
- If Covil has any safety records;
- The topic of Dr. Selikoff's talk which Palmer Covil attended wherein he learned asbestos was hazardous in 1966;
- Whether or not Covil knew exposure to asbestos could cause mesothelioma;
- If there are any other worker's compensation claims related to asbestos exposure before 1972;
- The existence of worker's compensation documents;
- Covil's document retention policy;
- If Covil documents were destroyed pursuant to a document retention policy after the 1973 fire;
- If Mr. Crawford worked around Covil employees;
- Whether Covil supplied insulation to the Spartanburg job;
- If Covil ever asked its suppliers about the hazards of asbestos;
- Information Covil or its employees may have had from union membership;
- Information Covil or its employees may have had from membership in trade organizations;
- What trade organizations Covil and/or its employees were members;
- If Covil safety procedures were enforced;
- If Covil had safety meetings for its employees;
- If Covil had a safety budget and how much it was;
- If written safety material or information made it to Covil employees;
- If Covil warned other contractors it was working around about the hazards associated with its work;
- How Covil's documents are kept and stored;
- How Covil's documents are organized;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

- Who was in charge of safety at Covil throughout its history;
- What follow up was done on insurance policies and insurance coverage for the relevant years in this case;
- Whether or not Covil had insurance coverage specifically for work at Celanese Spartanburg;
- Whether or not Covil has contracts for work or supply to Daniel Construction;
- Whether or not Covil has any documents relating to Celanese Spartanburg.

See, e.g., id. at 56, 58, 63, 65, 70, 71, 76, 77, 78, 80, 81, 83, 93, 97, 98, 99, 102, 103, 104, 112, 113, 114, 115, 118, 127, 128, 129, 130, 132, 133, 135, 136, 142, 159, 160, 161, 166, 167, 169, 170, 173, 178, 180, 191, 197.

Mr. Glenn admitted that two weeks was not enough time to prepare to be the Covil 30(b)(6) representative. *Id*. at 56-57. When asked if he had more time to look at the document if he would be more prepared Mr. Glenn stated, "I would certainly be more knowledgeable [] about what went on with Covil." *Id*. at 152.

Mr. Glenn and Covil were unprepared for this deposition. Sitting at the deposition, he was unable to describe what efforts or attempts Covil has made to even understand the limited documents that it does have:

> Q. Sir, what has Covil done to try to understand what records it has?
>
> A. I'm just getting started. So I'm at the early stage of I'm sure I'll fin[d] out more about what I'm to do regarding those documents and such.

Id. at 168.

ARGUMENT AND AUTHORITIES

I. The Court should impose sanctions for spoliation against Covil.

A. Covil has intentionally destroyed or concealed relevant documents.

Aside perhaps from perjury, no act serves to threaten the integrity of the judicial process more than the spoliation of evidence. In an adversarial judicial system, a litigant's ability to access evidence controlled by the opposing party is crucial for the system to function effectively. A spoliation sanction "is not a substantive claim or defense but a 'rule of evidence' and thus is

'administered at the discretion of the trial court.'" *Hodge v. Wal-Mart Stores, Inc.,* 360 F.3d 446, 450 (4th Cir. 2004) (quoting *Vodusek v. Bayliner Marine Corp.,* 71 F.3d 148, 155 (4th Cir. 1995)).

The spoliation of evidence is the intentional, reckless, or negligent withholding, hiding, altering, fabricating, or destroying of evidence relevant to a current or reasonably anticipated legal proceeding. If proven, spoliation may be used to establish that the evidence was unfavorable to the party responsible. *Black's Law Dictionary* (8th Ed. 2004). The theory behind imposing sanctions for spoliation of evidence is that when a party destroys evidence, it is reasonable to infer that the party had "consciousness of guilt" or other motivations to avoid the evidence being heard or introduced to the jury.

A party bringing a motion for sanctions based on spoliation bears the burden of establishing three (3) independent elements:

> (1) that the party having control over the evidence had a duty to preserve it at the time it was destroyed;
> (2) that the evidence was destroyed with a culpable state of mind; and
> (3) that the destroyed evidence was relevant to the party's claim or defense such that a reasonable trier of fact could find that it would support that claim or defense.

Ex. 11, *Cytec Carbon Fibers, LLC v. Hopkins*, No. 2:11-cv-0217, 2012 WL 6044778, at *2 (D.S.C. Oct. 22, 2012). Each of these elements are present here and support a finding that Covil has destroyed relevant evidence and that Plaintiffs are entitled to an appropriate sanction as a result of Covil's misconduct.

1. <u>Covil had a duty to preserve the records that its destroyed or misplaced.</u>

"A party has a duty to preserve evidence during litigation and at any time "before the litigation when a party reasonably should know that evidence may be relevant to anticipated litigation.'" *Cytec Carbon Fibers*, at *2 (quoting *Silvestri v. General Motors Corp.,* 271 F.3d 583, 590 (4th Cir. 2001)). There is a common law duty to preserve evidence and a party can only be

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

sanctioned for destroying evidence it had a duty to preserve. That duty arises when a party has notice that the party possesses evidence that is relevant to litigation or when a party should have known the evidence may be relevant to future litigation. Pre-litigation discussions or requests to inspect can also trigger a duty to preserve relevant evidence and it can be said that the obligation to preserve evidence runs first to counsel, who then has an ethical obligation to notify and advise their client on its obligations to safeguard and preserve the evidence relevant to the litigation on a continuing basis.

Covil's duty to preserve the type of evidence that Plaintiffs seek arose when it was first named as a defendant in asbestos litigation. As noted, Covil first receive such notice in 1972.

2. Covil negligently or deliberately destroyed the evidence.

Covil claims to not have any documents prior to 1973. Although Mr. Covil testified under oath that relevant documents were destroyed in a fire, Mr. Carpenter's testimony establishes that this is untrue. By failing to maintain documents relevant to pending and future asbestos litigation, Covil had a culpable state of mind because it either intentionally or negligently destroyed the evidence. The fact that it has misrepresented the circumstances of the destruction of its documents certainly suggests Covil intentionally engaged in wrongdoing. The destruction of the documentary evidence significantly hamstrings Plaintiffs' ability to present evidence to the jury and to prove its case against Covil.

The "culpable" state of mind requirement does not require willful destruction. Rather, "the moving party need only show that the evidence was destroyed 'knowingly, even without intent [to breach the duty to preserve it], or negligently.'" *Cytec Carbon Fibers*, at *2 (quoting *Byrnie v. Town of Cromwell*, 243 F.3d 93, 107–112 (2d Cir. 2001)). Further, while some courts require a showing of bad faith in order to impose sanctions, "the Fourth Circuit requires only a showing of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

fault, with the degree of fault impacting the severity of the sanctions." *Sampson v. City of Cambridge, Maryland,* 251 F.R.D. 172, 179 (D. Md. 2008) (citing *Silvestri*, 271 F.3d at 590).

Here, the evidence before the Court shows that Covil's conduct of either destroying relevant documents or concealing relevant documents satisfies, at least, the required minimum level of culpability needed for spoliation sanctions to be imposed. Because culpability encompasses everything from ordinary negligence to willful conduct, the culpable standard merely requires that Covil have some degree of fault. Whether the Court concludes that Covil was negligent, grossly negligent, or willful in destroying the evidence, the Court should find that Covil had a culpable state of mind when it spoliated the evidence at issue.

3. The evidence destroyed or concealed by Covil was relevant to Plaintiffs' case and its absence is prejudicial to Plaintiffs.

The last element, relevance to Plaintiffs' claims, is also clearly present on these facts. Under Rule 401, SCRE, "relevant evidence" means "evidence having any tendency to make the existence of any fact that is of consequence to the determination of the action more probable or less probable that it would be without the evidence." Evidence is relevant if it tends to establish or make more or less probable some matter at issue upon which it directly or indirectly bears. *State v. Schmidt*, 288 S.C. 301, 342 S.E.2d 401 (1986). Thus, any evidence which assists a jury at arriving at the truth of an issue is relevant. The determination of the relevancy of evidence is largely within the trial judge's discretion. *Strickland v. Coastal Design Associates, Inc.,* 284 S.C. 421, 365 S.E.2d 226 (Ct. App. 1987).

Given Plaintiffs' contention that Jerry Crawford was exposed to asbestos insulation supplied and/or installed by Covil during his work at Celanese between 1970-74, evidence from that time period is highly relevant to Plaintiffs' claims. Plaintiffs are not required to demonstrate the content of the destroyed documents or evidence with certainty, to the contrary, once the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Plaintiffs show that the spoliated material is likely to be relevant, the burden shifts to the party charged with spoliation, here Covil, to demonstrate irrelevance.

Here, Plaintiffs have met their burden of showing the spoliated evidence is highly relevant to its case and the fact that Covil destroyed, concealed, or negligently misplaced such evidence is a severe detriment to Plaintiffs' ability to prove their underlying claims. As such, Covil should not profit or benefit from its failure to preserve this evidence. Of course, Plaintiffs have no way of knowing precisely what exactly has been destroyed. However, there is every reason to believe that the destroyed or concealed evidence would have aided Plaintiffs' case, which has suffered irreparable prejudice due to Covil's spoliation.

By destroying or negligently misplacing relevant evidence, Covil has succeeded in hiding the best evidence of its fault and deprived the Plaintiffs of the opportunity to present critical liability evidence to the jury. Thus, the Court should find that Covil spoliated relevant evidence and should issue an appropriate sanction to deter such conduct in the future and attempt to re-level the now uneven evidentiary playing field.

B. Plaintiffs ask the Court to impose sanctions to remedy Covil's spoliation.

A proper sanction serves the purpose of "leveling the evidentiary playing field" and "sanctioning the improper conduct." *Vodusek v. Bayliner Marine Corp.,* 71 F.3d 148, 156 (4th Cir. 1995). In determining which sanction is appropriate, there is no single test or set of considerations that has been developed to apply to circumstances of spoliation. A key factor courts consider in determining which, if any, spoliation sanction is appropriate is the "degree of prejudice suffered by the opposing party[.]" *See Nucor Corp. v. Bell,* 251 F.R.D. 191, 201 (D.S.C. 2008).

Covil's spoliation of evidence has caused great prejudice to the Plaintiffs, who have the burden of proving their claims. Justice, fairness, and the law all require more than the proverbial

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

"slap on the hand." Covil's exclusive possession of the evidence and Plaintiffs' inability to prevent, or object to its destruction should weigh in favor of finding Covil at fault for spoliation. Plaintiffs' case against Covil hinges on whether Mr. Crawford was exposed to asbestos insulation supplied and/or installed by Covil at Celanese. Without access to the evidence that Plaintiffs have requested from Covil, Plaintiffs it is much more difficult for Plaintiffs to establish exposure and causation attributable to Covil. It is the Court's duty to punish Covil for its spoliation of this evidence and put the Plaintiffs in as close a position as they would have been had the spoliation never occurred. To accomplish that goal, the Court has several mechanisms to re-level the playing field.

When a party loses or destroys evidence, an inference may be drawn that the destroyed or lost evidence would have been adverse to that party. *Gathers ex rel. Hutchinson v. S.C. Elec. & Gas Co.,* 311 S.C. 81, 83, 427 S.E.2d 687, 689 (Ct. App. 1993) (citing *Kershaw County Board of Education v. United States Gypsum Co.,* 302 S.C. 390, 396 S.E.2d 369 (1990)). Over the years, courts have found numerous sanctions to be appropriate for the spoliation of evidence. Courts have allowed adverse inferences to be drawn from the loss or destruction of relevant evidence, issued fines plus attorney's fees, as well as other sanctions.

Among these tools that judges may use to combat spoliation is the adverse inference jury instruction/presumption. Giving the finder of fact the ability to decide what weight to place on the spoliation is the preferred practice in South Carolina. *Karppi v. Greenville Terrazzo Co.,* 489 S.E.2d 679 (S.C. Ct. App. 1997). The presumption does not arise from the failure to present the evidence, but rather from the role that the spoliating party had in preventing it from being reviewed by the jury or court. When a party loses or destroys evidence, an inference may be drawn that the destroyed or lost evidence would have been adverse to that party. *Gathers v. S.C.E.&G. Co.,* 427

S.E.2d 687, 689 (S.C. Ct. App. 1993) (citing *Kershaw County Board of Education v. United States Gypsum Co.,* 302 S.C. 390, 396 S.E.2d 369 (1990)).

Under modern practice in South Carolina, where a party is in possession of evidence but does not make it available to the other party, then the party who sought the evidence is permitted a "negative inference" charge to the jury. If the party in possession of evidence relevant to an on-going legal proceeding simply cannot make it available because the evidence was lost or destroyed, then the party seeking the evidence is entitled to a charge to the jury for it to consider the reasons why the evidence was not preserved and may draw a negative inference if it so desires. Failure to charge on "spoliation of evidence" is prejudicial to the moving party. *Stokes v. Spartanburg Regional Medical Center.* 368 S.C. 515, 629 S.E.2d 675 (Ct. App. 2006).

As an appropriate sanction against Covil, Plaintiffs request that this Court allow evidence regarding the events surrounding the spoliation of documents and that it give adverse inference instructions at the trial of this matter. As a result of Covil's spoliation of evidence, Plaintiffs are entitled to the presumption that Jerry Crawford worked with or in close proximity to asbestos insulation supplied and/or installed by Covil at Celanese between 1970-74.

II. The Court should impose discovery sanctions against Covil.

Rule 30(b)(6) permits a party to notice as the deponent a corporation and to describe the matters on which examination is requested. In that event, the organization must designate one or more persons who consent to testify on its behalf. The Rule goes on to state that the persons so designated must testify as to the matters known or reasonably available to the organization. This is not a deposition which is not limited to the designee's personal knowledge. Rule 30(b)(6) is a process which permits the defendant the opportunity to choose the individual who will speak on the defendant's behalf. The Rule also obligates the defendant to prepare the selected individual to

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

respond to topics identified by the plaintiff. This Rule was initially promulgated to benefit corporations, so that the corporate entity could produce one or more persons who could actually address the issues rather than having to produce multiple people simply because of their position. Likewise, Rule 30(b)(6) was intended to prevent serial depositions of various witnesses without knowledge from an organization and eliminate "bandying", which is when several people are deposed but each in turn just claims knowledge of the facts that are currently known to persons in the organization and thereby to the organization itself. Fed. R. Civ. P. 30(b)(6) advisory committee's note (1970). South Carolina's Rule 30(b)(6) is virtually identical to Federal Rule of Procedure 30(b)(6).

Since a corporation enjoys the protection of being a corporate entity, it is likewise obligated to produce persons to speak on behalf of the corporation and cannot duck or obscure by saying they do not know when such information is available to the corporation. Likewise, they cannot duck or avoid responding by contending they don't know what the corporation's position is on an issue simply because it is a corporation. They must speak for the corporation. This does, of course, require, in some instances, preparation. The law imposes upon the corporation to prepare the witness. In a Federal District Court case, the Court determined that a thorough, "reasonable" investigation may require an organization to rely on business records, other documents, interviews with present and former employees and the like. *United States v. Taylor,* 166 F.R.D. 356, 361, affirmed, 166 F.RD. 367 (M.D.N.C. 1996). Likewise, *Taylor* states that a corporation has a duty to prepare its representative which ensures that an organization will not ambush an opponent by conducting a half-hearted inquiry before the deposition but a thorough and vigorous one before trial. *Id.*

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

"The rights of discovery provided by the Rules [of Civil Procedure] give the trial lawyer the means to be prepared for trial." *Downey v. Dixon*, 294 S.C. 42, 46, 362 S.E.2d 317, 319 (Ct. App. 1987). "Where these rights are not accorded, prejudice must be presumed and, unless the party who has failed to submit to discovery can show a lack of prejudice," sanctions must be imposed, or a resulting verdict must be reversed. *Id.* While "[t]he imposition of sanctions is generally entrusted to the sound discretion of the Circuit Court, ... whatever sanction is imposed should serve to protect the rights of discovery provided by the Rules." *Id.* Without adequate sanctions, discovery procedures would be ineffectual. *Id.* As a result, overleniency must be avoided. *Id.* "If a party fails to obey an order or provide or permit discovery, the trial court may impose sanctions such as striking pleadings, dismissing the action, or rendering a default judgment." *Griffin Grading & Clearing, Inc. v. Tire Serv. Equipment Mfg. Co., Inc.*, 334 S.C. 193, 198, 511 S.E.2d 716, 718 (Ct. App. 1999).

"In determining the appropriateness of a sanction, the court should consider such factors as the precise nature of the discovery and the discovery posture of the case, willfulness, and degree of prejudice." *Id.* at 199, 511 S.E.2d at 719. In *Samples v. Mitchell*, 329 S.C. 105, 495 S.E.2d 213 (Ct. App. 1997), a party failed to disclose the existence of a videotape of the plaintiff in a personal injury case which was relevant to the issue of damages. The South Carolina Court of Appeals stated "[t]he entire thrust of the discovery rules involves full and fair disclosure, to prevent a trial from becoming a guessing game or one of surprise for either party." *Id.* "Discovery sanctions are imposed to penalize those whose conduct may be deemed to warrant such a sanction, and to deter those who might be tempted to such conduct in the absence of such a deterrent." *Creighton v. Coligny Plaza Ltd. P'ship*, 334 S.C. 96, 123, 512 S.E.2d 510, 524 (Ct. App. 1998).

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Here, it appears as though Covil has made almost no attempts to find out what was reasonably available to them since the *Howe* case. This Court sanctioned Covil for this same conduct in *Howe*. Although Mr. Glenn may have reviewed documents, it was an insignificant amount and ones that were found for him. Mr. Glenn was less prepared even that James Covil because at least Mr. Covil had personal knowledge and experience with the company. Mr. Glenn didn't know Covil existed until two weeks ago.

Covil's abuse of discovery in this matter is so blatant and deliberate that it warrants the imposition of significant sanctions in this matter including, but not limited to, the exclusion of witnesses testifying on behalf of Covil at the trial of this matter, a presumption that Mr. Crawford was exposed to asbestos from insulation supplied by Covil, and an award of attorneys' fees to Plaintiff for the expenses incurred in pursuing this motion. Covil has known since Plaintiff filed the initial complaint and certainly since receiving Plaintiff's First Set of Interrogatories that it would need to prepare a representative to answer questions relevant to its knowledge of asbestos. Covil has repeatedly and deliberately failed to answer questions, not just in this case but in others. The prejudice to Plaintiff as a result of Covil's discovery abuse is obvious. Plaintiff has had no opportunity to depose Covil on the matters listed above. Covil is aware that Plaintiff has sought punitive damages in this matter and that certain causes of action alleged by Plaintiff require evidence of Covil's knowledge of the hazards of asbestos and what actions it took because of that knowledge. Covil's failure to cooperate with the discovery process has and continues to irrevocably prejudice Plaintiff's ability to present his claims to the jury.

The discovery rules are designed to allow parties to prepare for trial. Covil's actions in complete disregard for the rules has hindered Plaintiffs' counsel's ability to prepare for the trial of this matter to Plaintiffs' substantial prejudice. The factors the Court is to consider in awarding

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

sanctions—the discovery posture of the case, willfulness, and degree of prejudice—all weigh heavily in favor of the imposition of significant sanctions. Excluding Covil's witnesses from testifying at the trial of this matter is justified under the circumstances.

CONCLUSION

The sanctions sought in this motion are directly related to the conduct complained of and are the minimum sanctions necessary to undo the harm caused by the actions of Covil in spoliating evidence crucial to the presentation of Plaintiffs' case and in its willful failure to cooperate in good faith in the discovery process. Covil's spoliation of evidence and its discovery misconduct has caused great prejudice to Plaintiffs. Consequently, Plaintiffs respectfully request that this Court enter an order sanctioning Covil as follows:

(1) allowing the Plaintiff to introduce evidence of Covil's acts of spoliation;
(2) instructing the jury that it can draw adverse inferences from Covil's acts;
(3) granting Plaintiffs the following presumptions:
    a. Jerry Crawford was exposed to insulation supplied and/or installed by Covil at Celanese between 1970-74;
    b. The insulation supplied and/or installed by Covil contained asbestos;
(4) prohibiting Covil from introducing any opinions, testimony, or evidence suggesting that it did not sell asbestos-containing insulation to Celanese on or before Mr. Crawford's last date of exposure at Celanese;
(5) prohibiting Covil from offering any fact witness testimony at trial, including testimony from a corporate representative; and
(6) requiring Covil to produce a knowledgeable witness for Plaintiffs to depose in Spartanburg prior to trial and allowing Plaintiffs to call that witness at trial if they so choose.

Lastly, Plaintiffs request that this Court consider whether Covil's conduct is so serious that monetary sanctions are necessary to deter others from similar conduct in the future. At the very least, Covil's conduct warrants a deterrent sanction because had the evidence never been spoliated, this case would be ripe for trial without the need for this current motion, the need to prepare the transcripts for this hearing, the extra time that counsel for both parties spent preparing briefs, arguments, and other costs associated with Covil's acts. Similarly, Plaintiffs should be

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

compensated for having to pursue a second deposition of Covil corporate representative. Plaintiffs have been prejudiced because the time spent on seeking a remedy for Covil's sanctionable conduct could have been spent preparing testimony, arguments, and other aspects of this case for trial. Plaintiffs therefore request that this Court find it entirely appropriate for Covil to bear the costs associated with resolving the spoliation and discovery issues raised by Covil's misconduct.

Respectfully submitted,

/s/ Jonathan M. Holder
Charles W. Branham, III (*Admitted Pro Hac Vice)*
Jonathan M. Holder (SC Bar No. 77935)
Aaron D. Chapman (*Admitted Pro Hac Vice)*
DEAN, OMAR, & BRANHAM, LLP
302 N. Market Street, Suite 302
Dallas, TX 75202
T: 214-722-5990 / F: 214-722-5991
jholder@dobllp.com
achapman@dobllp.com
tbranham@dobllp.com
Other email: tgilliland@dobllp.com

Theile B. McVey (SC Bar No. 16682)
KASSEL MCVEY ATTORNEYS AT LAW
1330 Laurel Street
Post Office Box 1476
Columbia, South Carolina 29202-1476
T: 803-256-4242 / F: 803-256-1952
tmcvey@kassellaw.com
Other email: emoultrie@kassellaw.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this 10th day of July, 2018.

/s/ Jonathan M. Holder
Jonathan M. Holder

EXHIBIT 1

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF YORK
SIXTEENTH JUDICIAL CIRCUIT

TIMOTHY W. HOWE, as Personal Representative of the Estate of WAYNE E. HOWE, deceased, and JEANETTE HOWE, surviving spouse,

Plaintiffs,

vs.

AIR & LIQUID SYSTEMS CORPORATION, et al.,

Defendants.

C/A NO.: 2015-CP-46-03456

In Re:
Asbestos Personal Injury
Litigation Coordinated
Docket

VIDEOTAPED
DEPOSITION OF: 30(B)(6) OF COVIL CORPORATION
(BY JAMES P. COVIL)

DATE: February 7, 2018

TIME: 9:22 a.m.

LOCATION: Gallivan White Boyd
55 Beattie Place
Suite 1200
Greenville, South Carolina

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Elaine L. Grove-DeFreitas
Certified Court Reporter

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 2

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF YORK
SIXTEENTH JUDICIAL CIRCUIT

ROXANNE FALLS, Individually and as Personal Representative of the Estate of CHARLOTTE GAYE SMITH, deceased,

Plaintiff,

vs. C/A NO.: 2015-CP-46-02155

CBS CORPORATION, et al., In Re: Asbestos Personal Injury Litigation Coordinated

Defendants. Docket

STATE OF SOUTH CAROLINA
COURT OF COMMON PLEAS
COUNTY OF YORK
SEVENTH JUDICIAL CIRCUIT

JAMES COLEMAN SIZEMORE, as Personal Representative of the Estate of JAMES CALVIN SIZEMORE, decedent,

Plaintiffs, C/A NO.: 2016-CP-25-0440

vs. In Re: Asbestos Personal Injury Litigation Coordinated

BOWATER PAPER MILL, Docket, et al,

Defendants. Mesothelioma Death (Jury Trial Demanded)

Page 3

APPEARANCES OF COUNSEL:

Attorney for Plaintiffs
Howe, Smith & Sizemore:

Dean, Omar & Branham, LLP
By: Jessica Dean (In Person)
Admitted Pro Hac Vice
302 N. Market Street, Suite 300
Dallas, Texas 75202
jdean@dobllp.com
(214) 722-5990

Attorneys for Defendant
Covil Corporation:

Gallivan White Boyd
By: T. David Rheney (In Person)
By: Ronald Tate (In Person)
One Liberty Square
55 Beattie Place, Suite 1200
Greenville, South Carolina 29601
drheney@gwblawfirm.com
(864) 271-9580

Attorneys for Defendants
CNA Holdings, SCAPA Waycross, and Riley Power, Inc.:

Pierce, Herns, Sloan & Wilson, LLC
By: M. Todd Rainsford (In Person)
By: James G. Kennedy (Via Phone)
321 East Bay Street
Charleston, South Carolina 29401
toddrainsford@phswlaw.com
(843) 968-0886

Page 4

APPEARANCES OF COUNSEL (Continued):

Attorneys for Defendants
Daniel International Corporation, Fluor Enterprises, Inc., Fluor Daniel Services Corporation, Union Carbide Corporation, Gorman-Rupp Company, Sterling Fluid Systems (USA) LLC, Fluor Constructors International, Inc.:

Haynsworth Sinkler Boyd, P.A.
By: William David Conner (In Person)
One North Main, Second Floor
Greenville, South Carolina 29601
dconner@hsblawfirm.com
(864) 240-3200

Attorneys for Defendants
Crown Cork & Seal Company, Inc., Waste Management of South Carolina, Inc.:

Leath, Bouch & Seekings, LLP
By: Yancey A. McLeod, III (Via Phone)
By: Timothy W. Bouch (Via Phone)
92 Broad Street
Charleston, South Carolina 29402
ymcleod@leathbouchlaw.com
(843) 937-0606

Attorney for Defendants
Foster Wheeler Energy Corporation, CBS Corporation, Ingersoll-Rand Company:
Evert Weathersby Houff
By: Andrew S. Rogers (Via Phone)
3455 Peachtree Road NE
Suite 1550
Atlanta, Georgia 30326
asrogers@ewhlaw.com
678-651-1298

Page 5

APPEARANCES OF COUNSEL (Continued):

Attorney for Defendants
Air & Liquid Systems Corporation, Aurora Pump Company, DeZurik, Inc., Goulds, LLC, SPX Cooling Technologies, Inc., Yuba Heat Transfer Corporation
Nelson Mullins
By: Robert O. Meriwether (Via Phone)
Meridian 17th Floor
1320 Main Street
Columbia, North Carolina 29201
robert.meriwether@nelsonmullins.com
(803) 255-9060

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 6

INDEX

Page
30(b)(6) OF COVIL CORPORATION (JAMES P. COVIL)
EXAMINATION
BY MS. DEAN 10
SIGNATURE OF DEPONENT 285
CERTIFICATE OF REPORTER 287

REQUESTED INFORMATION INDEX

(No Information Requested)

EXHIBITS

Page
PLF. EXH. 1, Notice of 30(b)(6) Deposition in Howe Case..... 14
PLF. EXH. 2, Notice of 30(b)(6) Deposition in Calvin Sizemore Case..... 15
PLF. EXH. 3, Notice of 30(b)(6) Deposition in Smith Case..... 16
PLF. EXH. 4, Not Admitted..... --
PLF. EXH. 5, Volume 2 of Deposition Palmer Covil..... 203
PLF. EXH. 6, Admitted Day 2..... --
PLF. EXH. 7, OSHA Rules and Regulations..... 164
PLF. EXH. 8, Admitted Day 2..... --
PLF. EXH. 9, List Of People That Have Filed Complaints..... 42
PLF. EXH. 10, 5-4-82 Letter and Documents..... 45
PLF. EXH. 11, Covil Insulation Company Document 239
PLF. EXH. 12, Admitted Day 2..... --

Page 7

EXHIBITS

Page
PLF. EXH. 13, 7-31-74 Tax Exempt Jobs..... 143
PLF. EXH. 14, Occupational and Nonoccupational Exposures to Asbestos Article by W.C. Hueper... 173
PLF. EXH. 15, Covil Corporation Congratulates Duke Power Company Document..... 230
PLF. EXH. 16, Covil Corporation Document..... 46
PLF. EXH. 17, 7-28-82 Letter from Travis Cash to George Self and Attachments..... 264
PLF. EXH. 18, 11-1971 through 1-1975 Subcontractors/Vendors - Hoechst Spartanburg Job Site..... 268
PLF. EXH. 19, Memo from Paul Talley to Customer Service, et al..... 253
PLF. EXH. 20, List With Customer Number And Name..... 76
PLF. EXH. 21, 6-3-80 Letter From Travis Cash To Mr. Dukes and Attachments..... 83
PLF. EXH. 22, Contractor's Prequalification Form..... 243
PLF. EXH. 23, Bowater Project Labor..... 214
PLF. EXH. 24, Subcontract Agreement..... 214
PLF. EXH. 25, The Employee Handbook..... 270
PLF. EXH. 26, Not Admitted..... --
PLF. EXH. 27, Not Admitted..... --
PLF. EXH. 28, 11-1-89 Letter from John Link to Bob Britton..... 112
PLF. EXH. 29, Pulp Mill And Hardboard Job Requirement Orders..... 211
PLF. EXH. 30, Power-House Division Document.... 233

Page 8

EXHIBITS

Page
PLF. EXH. 31, 7-16-73 Letter from Travis Cash to P.H. Claxton..... 246
PLF. EXH. 32, H.K. Porter Company, Inc. Document..... 127
PLF. EXH. 33, Childers Products Company Invoice..... 276
PLF. EXH. 34, Not Admitted..... --
PLF. EXH. 35, 10-30-78 Letter from Owens Corning Fiberglas Corporation to Travis Cash... 250
PLF. EXH. 36, Contractor Questionnaire..... 64
PLF. EXH. 37, Not Admitted..... --
PLF. EXH. 38, 12-31-73 Accountants' Report 92
PLF. EXH. 39, 12-31-74 Accountants' Report..... 92
PLF. EXH. 40, Notice to Job Applicants..... 196
PLF. EXH. 41, Report Of Examination For North Carolina Dusty Trades..... 32
PLF. EXH. 42, Index - Safety Section..... 277
PLF. EXH. 43, 5-31-79 Letter and Attachments... 72
PLF. EXH. 44, Memorandum from Covil Insulation Company..... 133
PLF. EXH. 45, From Little Violations, Major Accidents Grow Safety Presentation..... 183
PLF. EXH. 46, 5-31-79 Letter and Attachments... 66
PLF. EXH. 47, Memorandum..... 201
PLF. EXH. 48, Childers' Employment By Covil.... 220
PLF. EXH. 49, Handwritten Notes of James Covil..... 282

Page 9

The deponent does not waive reading and signing of this deposition.

* * * * * * * * * * *

MS. DEAN: This is Jessica Dean for the plaintiffs. I just want to put a couple of stipulations on the record. First of all, this deposition has been cross-noticed in the Howe, Sizemore and Smith case, also references the Falls case.

Second, we have agreed that an objection by one defendant is good for all unless someone specifically ops out. And of course everyone always has the opportunity to ask the objector to identify themselves if they would like to. But if not, the record can read "defense objection."

We also reached an agreement with Covil that the records that they produced in this case, which have Bates ranges that we can easily reference are authentic business records. And I think that is it for the preliminaries. Have I missed anything?

MR. RHENEY: (Mr. Rheney shakes head.)

MS. DEAN: No? Okay. Then I think we are ready to go on the record.

We have also agreed that appearances and

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 10

the reference to the case names can be on the written record and not on video record.

THE VIDEOGRAPHER: We are now on the record at 9:20:35 for the videotaped 30(b)(6) deposition of James Covil, who has presented for the Covil Corporation in three cases.

We are at the deposition offices of Gallivan, White & Boyd in Greenville, South Carolina.

Counsel has agreed that the written record will state their appearances for the video record. So we can swear the witness, please.

JAMES P. COVIL,

being first duly sworn, testified as follows:

EXAMINATION

BY MS. DEAN:

Q. Good morning.

A. Good morning.

Q. I'm hoping that if we're in trial, we'll be able to talk to you then, but in the event that for some reason we need to get this testimony before the jury, we're videotaping it now. So if I ever reference the jury, that's why.

A. That's fine.

Q. Is that okay?

Page 11

A. Sure.

Q. You understand that today we didn't actually seek the deposition of James Covil. Instead, we wanted to know about Covil Corporation, and so we kind of listed out the topics we were concerned about.

A. Right.

Q. You had a chance to review that with your lawyers and prepare –

A. Yes.

Q. – and now I get to ask you about that today.

A. Good. Yes.

Q. Have you ever done a deposition before, either as an individual or as a company representative?

A. Yes. 1986.

Q. Okay. So it has been a while?

A. Yes, a long while.

Q. Were you acting as a corporate representative at the time or was that just –

A. That was personal for the estate of my dad.

Q. Okay. Outside of that deposition, have you ever been deposed before?

Page 12

A. No.

Q. Okay. I'm informal and so I will often, particularly since you're a person and you're sitting in front of me, ask you what you know. Please understand that I'm asking what you know on behalf of the company unless I specifically say otherwise.

A. Okay.

Q. And you understand today that even though we're in a law firm, that you're under oath, and that oath is just as important as if you were sitting in front of a judge or a jury?

A. True.

Q. If at any point in time you want to take a break or you think my question is unclear, you know, this is a back and forth. Will you let me know?

A. Yes, sure will.

Q. I want to start off by getting a bit of an understanding of your history. You, as James Covil, and then talk about the company's history.

First of all, do you go by James or Jim?

A. Jim. But you can call me James, either one.

Q. When did you start working at Covil?

Page 13

A. I started in, I'm thinking '67, '68 when I was in high school. I worked in the warehouse for a couple months during summer break.

Q. The warehouse in Greenville?

A. Yes. The warehouse at the Covil offices. And then in the next summer, I worked inside, in customer service for like six weeks or so. And I started full time roughly June of '74.

Q. Okay. Do you mind telling me your age?

A. Sixty-five.

Q. Okay. And what position did you start off in June of '74? And kind of in the broadest strokes, can you give us kind of where you went from there until you stopped working full time?

A. I was in customer service, and I moved into sales for a short period of time. And I really had no title other than just a general worker.

And then I went into the Energy Division after that as like the salesperson for the Energy Division. And from there I went to the Energy Division manager later on, roughly 1980, somewhere around there.

Q. When did you first go to the Energy Division? So before manager, but when you just made that?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 14

A. '76, maybe.
Q. Okay. And then were you a manager in the Energy Division until 1990?
A. Yeah. Yes.
Q. Okay. There is a relatively long list between the three families that I represent of different locations at issue. It's over 70 companies long. Have you ever worked in any of those particular locations personally? And if it's helpful, I can give you that list.
A. The locations that the defendants worked at?
MR. RHENEY: The plaintiffs.
BY MS. DEAN:
Q. The locations where the plaintiffs –
A. Plaintiffs worked at?
Q. Yes.
A. Can you be a little more specific?
Q. I can. So I'm going to hand you what I've marked as Exhibit 1, 2 and 3, are the notices of deposition.
(Plaintiff's Exhibit No. 1, Notice of 30(b)(6) Deposition, was marked)
BY MS. DEAN:
Q. And the main two reasons, just for

Page 15

context, that I have these are, one, so everybody, in the future can kind of just know what topics this deposition is about. And two, because it lists out the locations. And that will be, I think, really helpful. And so on the beginning of Exhibit A, it identifies premises at issue. And for Mr. Howe's case, there are five that are identified. It's on the third physical page of Exhibit 1.
Have you worked in any of those locations?
A. No, I haven't.
Q. Okay. I'm going to do the same for each of these.
A. Okay.
(Plaintiff's Exhibit No. 2, Notice of 30(b)(6) Deposition in Calvin Sizemore Case, was marked)
BY MS. DEAN:
Q. I've marked as Exhibit 2, Mr. Calvin Sizemore's deposition notice. He is the one that gives us the most length. If you go to Exhibit A, they list out 56 locations.
Have you worked in any of those locations?
A. No, I have not.
Q. And I probably should have asked this

Page 16

about Mr. Howe, as well. Even if you haven't worked there, have you even been to those locations?
A. No, ma'am.
Q. What about Mr. Sizemore's locations? Have you ever walked into, for instance, Duke Energy Riverbend, or any of these other spots?
A. No.
(Plaintiff's Exhibit No. 3, Notice of 30(b)(6) Deposition in Charlotte Smith Case, was marked)
BY MS. DEAN:
Q. And then finally, for Ms. Charlotte Smith's case, I have Exhibit 3. And they reference 22 locations there.
Have you ever worked at or even walked into any of those locations? It should be on the third physical page.
A. No, I have not.
Q. Have you ever been into any power plant?
A. Not to my knowledge.
Q. Have you ever been into any paper mills?
A. No.
Q. Have you had the opportunity, outside of looking at documents, which I'll kind of talk about later, to review either the written testimony or statements of people or talk to people who have had

Page 17

actual experience in some of these places?
A. Yes, I have.
Q. Who did you talk to?
A. I talked with Charles McWhorter, who was our vice president of contracts.
Q. Can you tell me his last name again?
A. McWhorter, M-C-W-H-O-R-T-E-R.
Q. Anyone else?
A. No.
Q. Was there an effort to talk to anybody else that just weren't able to get there, or was this person the only person that you talked to?
A. We tried – we talked with Jimmy Barnett, who was our field superintendent, for – Danny and I did, for about five, ten minutes or so. And his wife answered the phone and said that he was there, that he would speak to us, but he is suffering from dementia and didn't know how much help he would be. So we did speak with him, asked him two or three questions. And he had no response to any of those questions, so we ended the phone conversation.
We did talk with Charles McWhorter for 15 or 20 minutes. He is living in Myrtle Beach right now. And he spoke about a few of the jobs

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 18

that Danny had asked about pertaining to this.
Q. Okay. Anyone else that you reached out to but weren't able to talk to?
A. No, not to my knowledge.
Q. Okay. And for Mr. Barnett, I understand that his life, basically, and particularly his memory, is severely compromised.
A. Yes.
Q. Can you tell me what you can remember about what you learned from Charles?
A. I have it in my notes, but I don't have it in front of me. But he was stating that – just various jobs that he had worked on. Danny asked him various questions about certain jobs.
MR. RHENEY: I do want to be careful getting into attorney work product, Danny's discussions with the client and someone else, but go ahead.
BY MS. DEAN:
Q. Just for reference, Danny White is who you're referencing?
A. Yes.
Q. And he is a lawyer for Covil?
A. Yes.
Q. Okay. And the main thing I'm looking

Page 19

for is just what you learned in these conversations to prepare yourself for the deposition.
A. Okay.
Q. So like what work sites.
A. I can't really recall. I'm thinking we talked about one of the Duke jobs.
Q. Do you remember which Duke Power plant?
A. No, I don't.
Q. Okay. And you indicated you have notes to kind of – that related to what you learned from his position?
A. I do.
Q. Can, on our break, we get a copy of those notes?
A. I didn't bring them with me today.
Q. Oh, they're not in the building?
A. No. They're my personal notes.
Q. Is there someone that could take a picture of it or something and get them to us?
MR. RHENEY: I would have to think about whether we're going to produce those or not. They're notes made in discussions with us.
MS. DEAN: It's our position that if they were made to prepare him for the deposition, that that doesn't apply, particularly if it would

Page 20

reveal which location we know is at issue. So I will revisit after you guys have a chance to talk at a break. And given that we probably are going to talk in the morning, there might be an easier way to handle it.
THE WITNESS: Well, I can say, based on the discussion with him, after asking him a few questions, he really wasn't much help as far as what we were trying to gain from the conversation.
BY MS. DEAN:
Q. Did he know any of the co-workers in this case?
A. The plaintiffs or defendants?
Q. So whether it be Wayne Howe, who is a plaintiff –
A. No, he knew none of those.
Q. But there were also people like Wayne Grant or Gilbert Small that weren't the individuals that are bringing the claims but worked with him or understood stuff that was going on.
Do you know if Charles was even asked whether he knew those individuals?
A. I don't think so.
Q. Okay. How did you go about identifying the individuals who have experience at these

Page 21

locations since you didn't – to try to reach out to so that you could be prepared today?
A. We just – I put down a list of some people that I could remember that had worked in various jobs. The majority of them are passed on. And the only ones that I could come up with that were local were Jimmy Barnett and Charles McWhorter. And it took us – it took me probably a couple weeks to get in touch with Charles. Now, he actually lives in Easley, South Carolina. He has a home there, but he's living at Myrtle Beach with his son. His wife just passed away a few months ago, so he moved to Myrtle Beach and is staying down there.
Q. Was there an effort to look through the files, for instance, to get a more complete of the hundreds of various employees that worked for the company in the '60s and '70s and '80s timeframes to see if you could broaden that list so it's not just based on your memory?
A. We have those files here, in our attorney's office, but I personally did not go through any of those.
Q. And the reason I think this is of particular importance is I understand that in – I think it was May 15th of 1973, but definitely May of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 22

1973, there was a substantial fire –
A. Yes.
Q. – at your main headquarters that didn't destroy the entire warehouse but part of the office, part of the warehouse was destroyed.
A. Right.
Q. Right? So if we want to understand what happened before May of '73, you didn't even start working full time with the company –
A. Right.
Q. – until after that.
A. Right.
Q. And a lot of records are gone. Right?
A. Right.
Q. And based on the effort taken by Covil to date, there isn't anybody that you've found that could give you any kind of substantive information about any work before 1973?
A. No.
Q. Okay. Have you ever, either while you were working in the warehouse in the '60s or in your work in the '70s, have to work with insulation yourself?
A. Yes. For a short time in '68, just before I went into the customer service, I went out

Page 23

into the field and worked and observed for maybe three weeks or so and actually did put on some pipe covering. It was fiberglass pipe covering. And that was about the extent of my working in the field.
Q. Was that just educational? They wanted to give you an idea?
A. Pretty much, uh-huh.
Q. How do you remember, after all of this time, that it was fiberglass?
A. Because we were using – putting it on like cold water pipes for a chilled water boiler or something to that effect.
Q. And I think I follow the logic, but fiberglass was typically what was used if it was a cold application –
A. Right.
Q. – where asbestos was used when you had high temperature?
A. Yes.
Q. Okay. And so it's not that you specifically have a memory. It's that you've learned the business well enough to know that because it was cold, that's going to be fiberglass?
A. True.

Page 24

Q. Okay. Do you remember anything about how the work was done? In other words, how they either took off the old insulation or the mechanism by which they put it back on?
MR. RHENEY: Object to the form.
THE WITNESS: I don't remember anybody in Covil removing any insulation. But I do know, from just one of the people I've talked with and being in the business for a while, that the process they go through as far as installing installation.
BY MS. DEAN:
Q. So from your own personal knowledge, let me start there and then I'll broaden it to what you've learned from being in the business, but do you remember how they went about putting it on?
A. Well, you have your pipes and you have your pipe covering based on the size of the pipes. And you either put the – they come in three-foot lengths, and you either apply that or you cut it to fit the size of the pipe. The pipe covering comes in various different sizes based on the size of the pipe. And most fiberglass has an all-service jacket on it, which is a paper jacket. And it has a self-seal out, which is like a two-inch piece of tape on the end of it. And when you connect the

Page 25

fiberglass around the pipe, you peel that off and stick the paper on.
And then after that, if there is any nineties, you use a piece of fiberglass to put around there. And then you would have to either put canvass or paper on top of that, and you take insulation mud that you mix up and put in the crevices and the cracks to make it one solid piece.
Q. Do you know how the mud was prepared?
A. It was in a bag, and you add water to it and mix it up.
Q. Okay. Outside of that about three-week period when you were in high school, did you ever have any hands-on work with insulation?
A. I put on fiberglass pipe covering.
Q. In later years?
A. No. Just that one time.
Q. Yeah. So outside of those three weeks, then.
A. No. No. Yeah.
Q. Sorry. Did you have an opportunity, in those summer months or in later years when you were working there, to observe other people working with insulation? Again, outside of those three weeks.
A. No. My job was just totally, basically

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 26

working inside and working in the Energy Department, which consisted of residential insulation, which is just fiberglass batts, storm windows, window tinting, weather stripping. Anything to conserve energy around the home. And it was mostly residential.

Q. So the vast majority of residential, if you're dealing with insulation, it's fiberglass, not industrial and asbestos?

A. Right.

Q. Okay. Did you have the opportunity to review depositions of other people who worked at Covil to prepare, whether it be your father's deposition or anyone else?

A. Yes. I went over my father's deposition a couple times, and I did review the Childers deposition.

Q. When you say Childers, you mean Lewis Childers?

A. Yes.

Q. Okay. Let me start with Palmer Covil's deposition. I was given three volumes of the deposition taken in 1977. Is that the deposition you reviewed?

A. Yes.

Page 27

Q. Are you aware of any others?

A. That he gave?

Q. Yeah.

A. No, I'm not.

Q. Okay. And one of the things I understand but just want to confirm is that you have reviewed that to be prepared for the deposition. So that while those aren't your memories, you, as a company representative, have gathered what you can from that deposition so you can speak on behalf of the company –

A. Yes.

Q. – since he can't.

A. That's correct.

Q. Okay. And so in trial or in other cases, if you can't remember a date that something occurred but your dad remembered it, I could show you that, and that would be in the realm of something you reviewed –

A. Yes.

Q. – and prepared.

Did you review all of Mr. Childers' testimony – and let me start off with saying in this case – because he has been deposed a lot.

A. Numerous times.

Page 28

Q. Yeah.

A. Yeah. I went through as many as I could. I did not try to memorize it all, but I did go through quite a few of the pages of his deposition.

Q. Let me start off by asking, did you review any other – any testimony other than the testimony he gave in Mrs. Charlotte Smith's case? And sometimes it has Falls at the beginning because that's the personal representative's name.

A. Right.

Q. But did you read any testimony that had another caption or another case involved in it?

A. No, I don't think so.

Q. Is there anything about his testimony, in terms of where he worked, the work processes he used, that Covil disagrees with or had a different understanding of that you can identify for me?

MR. RHENEY: Object to the form of the question.

THE WITNESS: Not to my knowledge.

BY MS. DEAN:

Q. Okay. There were other individuals that had testimony about insulation work that either Mr. Sizemore, Mr. Howe, or Mrs. Smith's husband at

Page 29

the time, worked around, whether it be Wayne Grant or Neelands, Harley, Gil Smalls or Dwayne Waters.

Did you read any of those depositions?

A. I went through them, yes, I did.

Q. Okay. First, with Wayne Grant – well, let me ask you. Sorry. I sometimes do this. But with Mr. Childers, did you know him at all?

A. No, I did not.

Q. Did Charles McWhorter?

A. No, he didn't – didn't recollect knowing him either.

Q. I butchered his last name, I think. How did you say it, again?

A. McWhorter.

Q. McWhorter. Like a quarter.

A. Right.

Q. That helps me.

MR. RHENEY: M-C-W-H-O-R-T-E-R.

THE WITNESS: Yes.

MS. DEAN: Yeah. I'm abandoning the actual spelling. I know she can't do that, but I can. And maybe I will stop being able to call him Charles.

Q. Did he go by Charles or Charlie?

A. Charles.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 30

Q. Okay. Did you know Wayne Grant?
A. No.
Q. Neelands, Harley?
A. No.
Q. Gil Small?
A. No.
Q. Dwayne Waters?
A. No.
Q. Okay. Was there anything about the testimony of Wayne Grant, in your review of it, that Covil takes issue with or disagrees, whether it be his description of the work or what he was doing?
MR. RHENEY: Object to the form.
THE WITNESS: Not to my knowledge.
BY MS. DEAN:
Q. Same question for Neelands, Harley.
A. No.
MR. RHENEY: Same objection.
BY MS. DEAN:
Q. Same question for Gil Smalls.
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. And same question for Dwayne Waters.
A. No.

Page 31

MR. RHENEY: Same objection.
BY MS. DEAN:
Q. And my main goal here is, you know, if Covil says, you know, Mr. Waters didn't work for the company for these two years or we wouldn't have removed insulation this way, not to be surprised at trial and so just making sure I'm being clear in what I'm asking, is – in your review of this testimony, does your knowledge of the documents make you believe that their description of anything that relates to Covil wasn't accurate so that I can just figure out why?
MR. RHENEY: Object to the form.
THE WITNESS: Everything that I looked at was based on what they said and what they observed. And if they didn't work at Covil, then I can't really answer that.
BY MS. DEAN:
Q. Okay. Wayne Howe's testimony, he had three volumes of it before he passed away. Did you get a chance to look at those?
A. Yes, I have looked. I have gone through most all of those.
Q. In your review are there any disagreements with his testimony that Covil has identified that you can explain for me?
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. I mark exhibits as I find them, and so they are not in any kind of logical order other than when my hands got on them. And often if you know something that I learned in an exhibit and you identify it, I will let it go instead of bringing out the exhibit.
A. Okay.
Q. So we may not talk about 41 exhibits, but I'm going to start off with Exhibit 41 and just say – and just hand you a copy of it and ask you a few questions.
(Plaintiff's Exhibit No. 41, Report Of Examination For North Carolina Dusty Trades, was marked)
BY MS. DEAN:
Q. This was a document I got from Covil. And it looks like it's the report of Examinations for North Carolina Dusty Trades for a variety of different individuals, where they identify the individual, their age and if there was an occupational lung disease identified by x-ray. Do you see that?

Page 32

Page 33

A. I do see it.
Q. First of all, I see on – and I'm going by the Bates label number. But on 16696, which is the third physical page, do you see that they reference Harley Neelands there?
A. Yes.
Q. First of all, Covil doesn't dispute that being an insulator is a dusty trade?
MR. RHENEY: Object to the form.
THE WITNESS: Can you be more specific?
BY MS. DEAN:
Q. Well, in the context that we are looking at here, North Carolina actually had a designation for insulators as a dusty trade. And I'm just asking, would Covil, as a company that was involved with insulation for years, agree that doing that type of work is dusty work –
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. – or at least can be?
A. Insulation is a construction industry, so it could be many things.
Q. And one of them is dusty.
A. There is dust involved.
Q. Okay. And my understanding, from just

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 34

kind of a discussion we had before we started this morning officially, was that there are employment files that were kept for different individuals. Did you get a chance to look at Mr. Harley Neelands' employment file?

A. I did not look at any employment files.

Q. Okay. Similar question, on the very last page of this document, it shows Dwayne Waters and his report of examination from North Carolina Dusty Trades.

Do you see that?

A. Yes.

Q. Did you make any kind of investigation into his actual file where he was working?

A. No, I did not.

Q. I have tried to list the different individuals that you may have reviewed to get ready, but I want to make sure I'm not missing anybody.

Do you recall reading any other depositions, other than the ones I have asked you about, to prepare for today?

A. No.

Q. Outside of talking to your lawyers, did you talk to anybody else about this deposition and not to, you know – well, I won't go into it, but

Page 35

about the substance of what you were going to do?

A. No.

Q. Can you give me an estimate in amount of time you spent preparing for the deposition with the lawyers?

A. Many, many hours.

Q. Dozens?

A. We'll say 50 hours maybe.

Q. When did that work start?

A. Roughly, six weeks ago.

Q. Okay. In terms of the documents that Covil has kept, let me first ask you, did you review any documents outside of the ones Covil had? In other words, we might get documents from Bowater or Duke or some of the other places where Covil was doing work. Did you review any of the documents outside of what Covil had that we got from other people or other sources, or was your –

A. Strictly what Covil already had.

Q. Okay. Were you aware that there were documents, not just reasonably available but, in fact, in the possession of your lawyers, about some of these locations that referenced Covil?

A. Yes.

MR. RHENEY: Object to the form.

Page 36

BY MS. DEAN:

Q. In terms of the documents that Covil had, were you the person who did the actual physical searching of them to pull out which ones are relevant, or were you given documents from the lawyers that already had been pulled out?

A. I did search through the file cabinets and look through them. And I did look. I was given some other documents also.

Q. In terms of your own search through the file cabinets, can you give me an idea of how much time you spent on that and what you were looking for?

A. I was looking for any job file pertaining to these jobs that these people were employed at or worked on. And I spent roughly two hours going through file cabinets.

Q. Did you organize them by job site?

A. No. I just tagged them.

Q. Okay. Anything else that you were looking for?

A. No.

Q. And then you said you were also provided documents from the lawyers. What were the nature of those documents?

Page 37

A. I have looked at invoices and material shipments. I believe that's about it.

Q. Okay. Do you have any brothers and sisters? I thought I read somewhere – I think it may have been your father. You have four aunts or had four aunts?

A. (Witness nods head.)

Q. Let me ask a cleaner question. Do you have any brothers and sisters?

A. I have a sister.

Q. Did she ever work in the company?

A. She worked as a receptionist for maybe a year. No longer than that.

Q. Never in the field?

A. No.

Q. Okay. My understanding is that there are several people that have worked at Covil as insulators who have died of asbestos-related disease. Is that correct?

MR. RHENEY: Object to the form.

THE WITNESS: There has been people who have passed away, but I have no idea what their reason for passing away was, whether it was insulation related or heart attack or car wreck. I have no idea.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 38

BY MS. DEAN:
Q. Are you aware of anybody that has passed away because of mesothelioma?
A. No, not off the top of my head.
Q. Okay. What about lung cancer?
A. No.
Q. What about asbestosis?
A. No.
Q. I was told, I thought from Danny White, but maybe I misunderstood, that your father passed away –
A. Yes.
Q. – from an asbestos-related disease.
A. Well, I wasn't including him.
Q. Okay. Okay. I also thought one of the board of directors, like Johnson or somebody else?
A. Russell Johnson?
Q. Yes, Russell Johnson had passed away from asbestos-related disease.
A. I don't have no knowledge of that. I don't know why he passed. I knew he passed away. I didn't know why.
Q. Has Covil made any of effort to figure out how many of its employees have at least claimed to have passed away from an asbestos-related

Page 39

disease, whether lung cancer, asbestosis or mesothelioma?
A. Not to my knowledge.
Q. Okay. Was Covil aware that, predominantly, the overwhelming cause of mesothelioma is asbestos exposure. It's called a signal tumor because the tumor signals what caused it?
MR. RHENEY: Object to the form.
THE WITNESS: I can't answer that. I'm not a doctor, so I don't have any idea.
BY MS. DEAN:
Q. And I'm not asking in terms of how, medically, they have established it. But what I am interested in is whether Covil, in the decades that they were working in the insulation industry, at some point understood that there was a disease called "mesothelioma," and it was overwhelmingly caused by asbestos exposure.
MR. RHENEY: Object to the form.
THE WITNESS: Well, my dad, in his testimony, stated that he started hearing noise from various people in 1966 about asbestos being harmful, and that's the only information I have.
BY MS. DEAN:

Page 40

Q. I remembered that work too.
What about when you started in the '67, '68 time frame? I understand you are literally a kid at that point. You're a high school kid. But do you remember hearing, in that time frame, that there were concerns about asbestos causing health issues?
A. No. Like I said, I was a high school kid, and I wasn't focused on that. I heard no conversation about asbestos, per se, didn't see any asbestos.
Q. But you, as a part-time employee for the company, were never put in the situation where you were working with asbestos?
A. No.
Q. But you're aware, at least in that time frame, that there were dozens of men working for Covil that were doing insulation work and high applications of asbestos.
A. There was a lot of men working for Covil at that time.
Q. When was your father diagnosed?
MR. RAINSFORD: I'm sorry. Did you say "diagnosed"?
MS. DEAN: Yeah. I'm not looking for a

Page 41

date, but just an approximate year.
MR. RHENEY: Well, diagnosed with –
MS. DEAN: I thought he had mesothelioma. But maybe that – all I know about this is what Danny told me.
BY MS. DEAN:
Q. And so what disease did your father have and when did he find out about it?
A. Honestly, I was thinking it was lung cancer. Danny said it was mesothelioma. I can't remember what the death certificate said. But he got sick in '78, and he never recovered from – and he died in '84.
Q. Is he the only person that you know of personally that had this disease?
A. Yes.
Q. And I understand that this is personal and so I don't intend to delve into it a lot, but you would agree, both from what you – let me separate that. You understand firsthand, from the experience that you had at Covil with your father, that this is a horrible disease.
MR. RHENEY: Object to the form.
THE WITNESS: Any cancerous disease that somebody has is dangerous and harmful.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 42

BY MS. DEAN:
Q. In terms of other people outside of your father that believe that they have an asbestos disease from working at Covil, have you made any effort to create a list of how many people fall in that category?
A. No, I have not.
Q. I saw, in Palmer Covil's deposition, that there was a list of companies that the lawyer and him created as of 1977. Do you happen to know what I'm talking about?
A. Not right offhand.
Q. Okay. And I have his testimony here. And so if you ever want to look at what I'm looking at for context, I have that handy. But I will represent to you, and I will show you before I hand it to a lawyer, you can see the exhibit sticker, which I covered up on yours.
A. Right. Gotcha.
(Plaintiff's Exhibit No. 9, List Of People That Have Filed Complaints, was marked)
BY MS. DEAN:
Q. But for – this has been marked as Exhibit 9. It was Plaintiff's Exhibit 3 – or, excuse me, Defendant's Exhibit 3 for Mr. Covil,

Page 43

Palmer Covil's deposition.
A. Yes.
Q. Where he was asked to checkmark the people he individually knew in this list of people that have filed complaints.
A. Right.
Q. Do you remember –
A. I do remember reading that.
Q. So I have, at least as of 1977, a two-page list of people that believe that they have been harmed by asbestos from Covil. What I'm wondering is if anybody kept that going after the date of that deposition.
A. I do not know that, because I was not aware of this list until going through his deposition and exhibits.
Q. Do you know if anybody in the company was made aware – and maybe not of the individual people's names, because I understand there might be privacy concerns, but that there were – there is a list that was long enough that it had to go to another page of people who think, just from working around asbestos, that they are getting sick?
MR. RHENEY: Object to the form.
THE WITNESS: If there is, I'm not aware

Page 44

of it.
BY MS. DEAN:
Q. Let me back up a little bit before getting into the substance, just to make sure we are on the same page in terms of just background of Covil company.
My understanding is Covil was a Greenville, South-Carolina-based company that had two primary functions: Insulation contracting and distribution of insulation.
A. Yes.
Q. Founded in 1947.
A. Yes.
Q. Since it was founded until at least the 1980s, Covil furnished the southeast with insulation products?
A. Yes.
Q. Covil had facilities and capabilities and expertise to satisfy the requirements for any job that involved the need of insulation?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Would you agree with that?
A. As far as I know, they did insulation work, sales and contracting, yes.

Page 45

Q. And would you agree that they had the capabilities and expertise to satisfy any job requirements when it came to the need of insulation?
MR. RHENEY: Object to the form, overbroad.
THE WITNESS: I can't answer that. I don't know.
(Plaintiff's Exhibit No. 10, 5-4-82 Letter and Documents, was marked)
BY MS. DEAN:
Q. I'm going to hand you what I have marked as Exhibit 10.
MS. DEAN: And I lost my third copy of this one to give to Trey. He needed it for Daniel. But you can see there it's Covil. It starts at 8837.
BY MS. DEAN:
Q. Do you see Exhibit 10 is a Covil Corporation document dated May 4th, 1982?
A. Yes.
Q. And what it reported is that "Covil Corporation has the facilities, capabilities, and expertise to satisfy the requirements for any size job."
Do you see that?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 46

A. Yes.
Q. And they go on to say they provide material and labor for contracts that went all the way up to 10 million dollars, which is a big contract. Right?
A. Correct.
Q. And Covil both had and bragged about the fact that they handled some of the largest insulation contracts in the southeast –
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. During the '60s and '70s time frame.
A. I know they did a lot of work for some big companies. I don't know how large they were.
Q. And I'm going to come back to this if you want to keep it handy, but let me show where I got that from.
(Plaintiff's Exhibit No. 16, Covil Corporation Document, was marked)
BY MS. DEAN:
Q. I hand you what I have marked as Exhibit 16. And I have handed you another Covil document that was provided to me. And in the second sentence it says: "We have handled some of the Southeast's largest insulation contracts for proud

Page 47

companies like DuPont, Duke, Eastman-Kodak, and Champion Paper, just to name a few."
Do you see that?
A. Yes.
Q. And you have no reason to dispute that. Right?
A. True.
Q. For those particular companies, and I'm really focusing in on three of the four: DuPont, Duke, and Champion Paper. Are you aware of a single year since those companies' different plants were built where Covil was not involved with some kind of insulation project for the company?
A. I really have no idea what the dates were that they were there or the time frame of when they worked there.
Q. In your review of the records, though, you saw, over and over and over and over again, even in the limited records that Covil had, that they were participating at Duke Power facilities?
A. Oh, yeah. Yes.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. It goes on to say that they did service – and this is in the second paragraph –

Page 48

service both during and after insulation.
Do you see where I'm at?
A. Yes.
Q. I didn't know what that meant. Well, what kind of services did Covil provide that would be pre-working with the insulation or after working with the insulation?
A. I don't know what they are getting at pertaining to that. We provided a lot of services, but I don't know what he is getting at.
Q. In terms of kind of the types of areas that Covil would do insulation work, they indicate, in that third paragraph, that they did work in paper plants, power plants, hospitals, commercial and industrial operations, chemical facilities.
Do you see where I'm at?
A. Yes.
Q. And if you go to the next page, in their Customer References you also can see that one of the references is a school system.
MR. RHENEY: I'm sorry. Is what?
MS. DEAN: The School System of Greenville County.
THE WITNESS: Yes.
BY MS. DEAN:

Page 49

Q. And so not throughout the whole country, but throughout the southeast, Covil was an active insulating contractor for decades.
A. Yes.
Q. I couldn't find – and given the time frame we had to kind of assemble this, I don't put a huge amount confidence in this. Sometimes I feel like I know exactly what is in the record. I'm a little shakier on this one. But let me start with a cleaner question.
I couldn't find anything that explained the actual work process of an insulator: How you remove insulation, how you put it back on, in written form. Are you aware of anything like that?
A. I don't know that there is one.
Q. Okay. If I wanted to know all of the different ways to remove old asbestos insulation, whether it's using a hammer or using your hands, using a chisel, some of the different things that co-workers describe, does Covil, as a company, through you, as their representative, have any list of ways that they believe were okay versus were not okay?
A. Well, first of all, I don't know of any time they removed any asbestos-type insulation.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 50

However, I don't know of any document or anything to go by that – saying how that would be done.
Q. So even just in your review of the testimony of Mr. Childers, for instance, he indicated he would come in during the time frame he was working for Childers, remove insulation, put it back on, go to the next place. Do you recall seeing that?
A. No, I don't.
Q. Okay. I'll just make a mark and then we can pull that up on the next break.
How did Covil believe the insulating work was done, if it was maintenance or repair work being done, if there wasn't an effort to remove the existing insulation to replace it?
A. Well, not all –
MR. RHENEY: Object to the form.
THE WITNESS: Not all insulation that they worked on, as far as maintenance, was asbestos. And they had maintenance contracts with certain companies that where they kept somebody at that job site for X number of days, months, years.
BY MS. DEAN:
Q. And so I will divorce it from the issue of what type of insulation it was, but Covil had a

Page 51

variety of different services it performed. One was to provide the materials, and sometimes that was all they did –
A. Right.
Q. – just provide it. Right?
A. Yes.
Q. Sometimes they were the actual contractors that came in and installed the materials.
A. Yes.
Q. Sometimes they maintained the insulation that was in a facility. And I think you were saying there are maintenance contracts that would define how long they would be there. Right?
A. Right.
Q. And if you're maintaining a material or doing a repair on a material, you could be working with existing insulation.
A. It's possible.
Q. Okay. And for maintenance, that's the nature of what you're doing. You're maintaining something that exists over a specified period of time?
A. That's true. But in some of these facilities, they had their own maintenance people

Page 52

that would do a lot of work before we came in and reinsulated.
Q. And I understand, just from deposing some of the people in some of these facilities, some had their own maintenance department. Some didn't have one at all. Some contracted with Daniels, and some contracted out you. So I'm not looking for this was how it worked everywhere, but in situations – in situations where Covil was the one with the maintenance contract, the nature of that job would be to maintain the existing insulation for whatever period of time is contracted for?
A. Possibly could be.
Q. Okay. When – in terms of these different duties, whether it be maintenance, selling of the insulation or installing the insulation, was that the model of the business from when it was founded in 1947 until they stopped the contractor end, which I think was in the '80s?
A. Yes.
Q. When they stopped doing the contracting work, did they also stop doing the maintenance work?
A. Yes.
THE WITNESS: Can we take a short break?
MS. DEAN: Of course.

Page 53

THE VIDEOGRAPHER: Going off the record at 10:08:56.
(Break In Proceedings)
THE VIDEOGRAPHER: At 10:21, we are back on the record.
BY MS. DEAN:
Q. I want to spend a few minutes talking about kind of the one part of Covil's business where they acted as a distributor of insulating materials and accessories.
A. Okay.
Q. Why have a distributor? I mean, what value did Covil provide in that system, as opposed to having the end-person go straight to the manufacturer and get the product themselves?
A. Well, us being distributors, we were able to put out prices on materials that some of the other companies could not. And a lot of the people had their own maintenance people; therefore, they wasn't in the insulation business, so they had to buy it somewhere. And we would bid material jobs to just supply material only.
Q. Outside of – well, first of all, what allowed Covil, as the distributor, to have a better price point than Duke, who has insulation needs and

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 54

multiple big plants, just by way of example?
A. I can only speak for like Owens Corning, which is our biggest distributor. And we had an agreement with them, according to my dad's deposition, back in the late '50s, early '60s, and that was our primary type of material that we sold at that time. And then they picked up various other companies and were distributors.
He didn't say they had written agreements, but they had like verbal agreements for various other companies to sell material for.
MS. DEAN: And I'm going to object to nonresponsive, which doesn't mean it's not helpful. It just means I didn't think I got the answer to the question I was looking for.
BY MS. DEAN:
Q. To me, it's a broader question. Regardless of who you're distributing for, why is it that Covil would get a better price point than the end user, particularly given that some of these end users have lots of insulation needs?
A. Mostly because we buy more quality of material from the manufacturer than someone like Duke would, possibly.
Q. Okay. Your dad, in his deposition, when

Page 55

he was the company representative back in 1977, indicated that there were warehouses where they could store it usually up to year. Do you remember that?
A. We did have other branches that stored material in warehouses.
Q. Can you give me, for the other branches, the dimensions or some kind of idea of the size of that warehouse or those warehouses?
A. Greensboro is the only one I went to, and that was traveling with him. And it was quite a bit smaller than the home office here, in Greenville. But as far as dimensions, I couldn't even speculate.
Q. How many two-car garages could fit in there?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea. It was not a big office at all.
BY MS. DEAN:
Q. Has there been any effort at all to ascertain the size of the dimensions of the different warehouses of the four branches?
A. Not to my knowledge.
Q. Okay. Do you know if any of those

Page 56

branches still exist, if you could go into the facility?
A. You mean, is the physical building still there?
Q. Yeah.
A. I have no idea.
Q. Okay. Whether on your behalf or you personally, has anybody investigated that?
A. Not to my knowledge.
Q. Okay. Are you aware, in the '70s time frame, whether there was an issue for the branches – and I'm kind of isolating them so we are not going to talk about the fire that happened in the main facility for a minute – whether there was any kind of slowdown in being able to get asbestos insulation out because of concerns that were exploding about asbestos in the 1970s?
A. I would have no idea to that. I don't know.
Q. Because there was this agreement to use your father's deposition, I don't want to go into all of the specifics of the different distributors.
A. Distributors.
Q. Let's try that again. Because we have a lot of information from your father's deposition. I

Page 57

don't want to retread all that, but I do want to just get a list of different companies you were a distributor for, "you" being Covil. And there is a list on Exhibit 10 that I just would like to look at together.
A. Okay.
Q. They reference, in that second paragraph, that they were a distributor for Owens Corning, Johns Manville, Pabco – I'm not sure how you pronounce that.
A. Knauf.
Q. Is it Knauf?
A. Uh-huh.
Q. Benjamin Foster, Childers Products, Goodtempt, Forty-Eight Insulation, and Ceel-Co. Do you see that?
A. Yes.
Q. And many of these companies I'm familiar with, but Childers I had to look up. My understanding is they were the world's largest manufacturer of a variety of things, including coatings, adhesives and sealants. Do you agree with that?
MR. RHENEY: Object to the form.
THE WITNESS: To my knowledge, that's –

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 58

they did sell sealants. And I'm thinking they sold metal jacketing also.
BY MS. DEAN:
Q. That was listed there, as well.
A. Okay.
Q. Do you know, on behalf of Covil, the last year that their adhesives or sealants contained asbestos?
A. No. I can say that as of '73, all asbestos was out of Covil's warehouse and operation.
MS. DEAN: I'm going to object to both nonresponsive and speculation, but I am going to come back to that.
BY MS. DEAN:
Q. But for Childers, do you know when they stopped selling asbestos coatings, adhesives and sealants?
A. No, I do not.
Q. Do you have any basis to dispute that those were sold into the late '80s?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:
Q. Have you seen – given that you don't have personal experience with this, have you seen

Page 59

any records anywhere that suggest any uniform effort was made by Covil to make sure they weren't purchasing asbestos during any time frame?
A. I know I saw an old paperwork saying that, but word of mouth and my dad's deposition said that most of the asbestos was out by '73.
Q. When you say –
MS. DEAN: Let me object to nonresponsive and maybe hearsay.
BY MS. DEAN:
Q. But when you say "word of mouth," who are you referencing?
A. Just from idle talk in the office or at Covil's offices.
Q. Okay. Can you say who would have –
A. I would have no idea.
Q. Have you seen documents that directly contradict that proposition, that show asbestos was, in fact, still being sold after the fire; in fact, days after the fire?
MR. RHENEY: Object to the form.
THE WITNESS: No, I have seen nothing pertaining to that.
BY MS. DEAN:
Q. For any of these companies listed in

Page 60

Exhibit 10, has Covil made any effort to figure out the last date in which they supplied, as a business – I'm not saying this Covil specifically, but as a business, asbestos-containing products of any kind?
A. Not that I know of.
Q. Sometimes – and just so you understand where I'm coming from, I'll see memos or files of memos saying: We are going asbestos-free. Asbestos is not to be delivered. Get rid of all the asbestos that you have in the branches, where it – well, it had just burned down – whatever it may be.
Anything like that at all that you're aware of, in the thousands of documents Covil has, to show a company directive to make sure asbestos wasn't going out of the doors from a Covil facility?
A. Not that I can remember.
Q. When we think about the distribution – actually, let me stop for a moment.
Exhibit 16, which I just handed you, lists many of the same companies that they were a distributor for, but they also list a few others. Can you see there where they talk about Covil as a distributor for, and it lists a bunch of companies?
A. Yes.

Page 61

Q. And in addition to some of the ones we have already seen in Exhibit 10, they list CertainTeed, Armstrong, and Calsilite?
A. Uh-huh.
Q. Do you see that?
A. Yes.
Q. First of all, do you know when CertainTeed last sold asbestos-containing products to the public?
A. Not right off the top of my head, I don't.
Q. Do you know what CertainTeed products Covil sold?
A. I know they sold fiberglass. That's all I can think of at this time.
Q. And when say you know that, is that from your personal experience?
A. From experience, uh-huh.
Q. Okay. Have you made any effort to try to figure out what CertainTeed products Covil was a distributor for?
A. I have not.
Q. I saw some questions about Calsilite in your father's deposition, so let me just follow up with that. Was Calsilite a product that was

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 62

manufactured or in some way Covil was involved with the manufacturing process?
A. Covil did no manufacturing. However, I'm not familiar with the Calsilite products.
Q. Did they have a separate insurance policy for Calsilite?
A. Did Covil?
Q. Yes.
A. I have no idea. Like I said, I'm not familiar with Calsilite.
Q. Exhibit 16, I can't find a date for this document. And I looked at kind of the numbers before and after to see if maybe they could – you know, maybe this was part of a larger production, but it didn't appear to be. And so I'm wondering if you can tell, by anything that's being referenced here, an approximate time frame that this would have been created.
A. I really have no idea. I don't see anything that – timewise, that would put a date on it.
Q. I didn't know, for instance, if the date of the Air Handling Products Division – you know, that came about in '82, so I know it's at least after '82. I mean, that's an example of something

Page 63

where your personal knowledge of the company just might help us get some feel.
MR. RHENEY: Object to the form.
THE WITNESS: Right. It would be – it would be thereabouts because we didn't, you know, like I said, pick up the air-handling products until somewhere in the '80s.
BY MS. DEAN:
Q. Okay. Do you know if anybody had any concerns, when they were inviting folks out to their completed projects – do you see that, in paragraph three, they are inviting people out either to their facility or to their completed projects – about inviting people to a place where asbestos was located?
MR. RHENEY: Object to the form.
THE WITNESS: What was your question? I'm sorry.
BY MS. DEAN:
Q. Sometime in the '80s when Covil is writing "Come visit our plants or our completed projects," whether they be in power plants or paper plants, whether they considered, at all, the risks associated with having visitors come into places where asbestos –

Page 64

MR. RHENEY: Object to the form. Lack of foundation.
THE WITNESS: I have no idea. But we constantly had customers visiting our plant at Covil. But as far as visiting job sites, I have no idea.
BY MS. DEAN:
Q. In terms of the contract and maintenance functions for Covil, as opposed to just distributing goods, my understanding is that went back all the way to 1947, and that your father actually spent over a decade doing that work himself.
A. According to his deposition, he did.
Q. And I couldn't nail down an exact time frame, but my understanding is in about 1989, a decision was made to stop doing the contracting end.
A. Yes.
Q. Okay. In the projects that involved the removal or maintenance of insulation – well, first of all, have you made any effort to verify how many of those projects existed?
A. No, I haven't.
(Plaintiff's Exhibit No. 36, Contractor Questionnaire, was marked)
BY MS. DEAN:

Page 65

Q. I saw something – and let me hand it to you for reference. Exhibit 36, which I haven't put a sticker on that, so I'm going to have to take it right back. Sorry. I apologize.
Exhibit 36 says: "Contractors Questionnaire" and shows that the firm name at issue is Covil Corporation. And it's dated February 1st, 1982.
Do you see that?
A. Uh-huh.
Q. Is that a yes?
A. Yes.
Q. Okay. That is just for clarity on the written record.
And if you look to Bates page 8856, you can see, in terms of the work that they are coming in and doing, they are doing equipment insulation, lagging, fire protection and piping insulation.
Do you see that?
A. Yes.
Q. I may have pulled the wrong sheet. I handed you the wrong thing. I apologize.
What did we mark that as?
A. 36.
MS. DEAN: I marked two 36s in my notes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 66

That's what's happened. So we will mark this one as 46. And thanks for bearing with me.
(Plaintiff's Exhibit No. 46, 5-31-79 Letter and Attachments, was marked)
BY MS. DEAN:
Q. This is a May 31st, 1979, Covil document.
Do you see that?
A. Uh-huh. Yes, I do.
Q. It's talking about work done at the Duke Power plant, McGuire Nuclear Units 1 and 2. It references Westinghouse, and it says it's in North Carolina. Are you following?
A. Yes.
Q. If you look to the last page of this document, it's Bates 17722, they have a takeoff sheet. Have you seen one of these before?
A. Yes, but it has been a long time.
Q. What is the function of this sheet?
A. To try to figure out how much insulation or pipe covering or material that they are going to need for a particular size for a particular job.
Q. Do you know if this is – this is done on a Westinghouse turbine at McGuire plant, is what it says at the top. Is this something that Covil

Page 67

generates or that Westinghouse generates or that Duke generates, or do you know?
A. Covil would generate this, I'm pretty sure. It's on a Covil takeoff sheet. Let me back up.
I can't say that for sure. Somebody else could have done it, but we did – Covil did use these.
Q. Okay. That's all I wanted to ask you on that one.
A. Okay.
Q. I think you answered this more broadly, but if – I will represent to you Westinghouse, in relation to this specific project, has provided us documents.
A. Yes.
Q. That's not something you have reviewed or that you're in any way prepared to talk to me about. Is that fair?
A. Correct.
Q. When doing a maintenance contract, would you be able to tell me, for any particular facility in these lists that we have, the 56 for Mr. Sizemore, the 22 for Charlotte Smith's case, or the five for Howe, firsthand, or based on any

Page 68

research you have done, whether the company listed had an insulating or maintenance group to do insulating work at the facility listed?
A. I'm thinking it was in the – well, most of them were just provided material.
In the Howe case, I don't think we actually did insulation. We provided material.
I think in the Childers case – and I may have these backwards, but I'm thinking in the Childers case they stated, especially Wayne Grant stated that Starr Davis was the insulator on the job site doing the insulation.
MS. DEAN: Let me object to nonresponsive. I asked a really long question.
BY MS. DEAN:
Q. And you had mentioned, in a prior answer, that sometimes you guys did the maintenance and sometime they had their own maintenance folks. Do you know, for any of the actual specific companies listed out for these three cases, whether they had employees in-house to do insulating work?
A. If Covil had employees –
Q. No.
A. – or if the people at the job site had?
Q. People at the job site. So by way of

Page 69

example, Bowater is one that's in all three. Do you know anything – and if so, I will dig into the time frames – about whether they actually had a workforce dedicated to installing, maintaining or repairing insulation?
A. No, I don't know that.
Q. And if I broaden that to all of the locations for these three, I'm just wondering if you have any information to help us understand whether any of those particular companies had man-force in-house to their company to do insulating repair or maintenance work.
A. I have no idea. I can't speak for them.
Q. When doing insulation repair work, was there ever a period of time at Covil, that you are aware of, where the potential that what you were repairing or removing had asbestos in it, became an issue?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. And if so, how did the company handle that?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 70

Q. So to make sure I'm asking a good question, I just talked to the company called Metal Clad that did this stuff out in California. The way he put it is: Look, if it's not – they are officially abatement contractors now. It's not like one day we decided to be abatement contractors, but when you're an insulator, you go in and take insulation off and put new stuff on. And at a certain point that became regulated. When we are taking this stuff off, you have to be an abatement contractor. It wasn't like an active decision one day. That's just that was the natural progression.

I'm wondering if you, since you didn't personally – weren't on that side, but if you're aware of anyone that was kind of aware of all the difference regulatory changes on the end of repairing or removing insulation that were happening in South Carolina, North Carolina, Virginia or the other states where –

MS. DEAN: Object to the form.

THE WITNESS: If we had anyone – anyone in-house, are you talking about –

BY MS. DEAN:

Q. Yes.

A. – in our organization?

Page 71

Q. Yeah.

A. If we did, it would be the field superintendent or the construction manager, which was the same person.

Q. Who was that?

A. That was Russell Johnson.

Q. Who has passed away.

A. Right.

Q. So, for instance, the best I can figure out, and just trying to understand this, in 1984 there were efforts made by the Department of Health and Environmental Control in South Carolina, where if you're removing insulation, you have to do certain things.

A. True.

Q. Do you have any indication, from any records, that anybody at Covil was paying attention to that?

MR. RHENEY: Object to the form.

THE WITNESS: I can't answer that.

BY MS. DEAN:

Q. Do you know if anybody ever became licensed or went through the – I think there were three or four forms with the Department of Health and Environmental Control – that made any kind of

Page 72

efforts to meet the abatement requirements between 1984 and 1989 when they no longer were doing contracting?

A. Covil never did that.

Q. I saw, in Exhibit 43, reference to abatement materials, and I didn't quite understand what I was looking at. And I wanted to see if you understood it better than I did. So let me begin by handing you Exhibit 43.

(Plaintiff's Exhibit No. 43, Crawford Insulation, Inc. Document, was marked)

BY MS. DEAN:

Q. This document starts off by talking about Crawford Insulation. Do you recognize that company?

A. No.

Q. And it says Crawford Insulation Company in Florence, South Carolina. And it's dated January 14th, 1986. And then it mentions Harry Link and the Covil Corporation here in Greenville.

Do you see that?

A. Yes.

Q. And they are ordering a bunch of stuff that directly relates to asbestos abatement: Tyvek suits, Asbestos-Saf Sac, half-face respirators,

Page 73

asbestos labels. The second page has other things: Disposable filter bags, asbestos filters. Are you following along with me?

A. Yes.

Q. And this is a customer order being provided – at the top it says to the Greenville address for Covil.

A. Harry Link was over our urethane spray division. And they used a lot of this same stuff when they were spraying spray-on insulation for heat, soundproofing, whatever the case may be. He had guys in – he had a certain – we had a certain division at that time, and he was over that division and had men working for him that would spray on insulation. And they always had to wear suits. Not that it was hazardous, but it was very dirty, sticky, and hard to work with.

Q. And just because everyone may not be looking at this as we look at it. When it says Covil Corporation, Greenville, South Carolina, the name above that says Harry Link. Right?

A. Right.

Q. Okay. And in 1986 this wouldn't be a situation, to your knowledge, where they would be spraying on any kind of asbestos product?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 74

A. Oh, no. No.
Q. And so it's your belief that when they were doing spray-on work with a non-asbestos product, they were wearing Tyvek suits?
A. Yes. They did on a lot of occasions. And sometimes they would have to put plastic around the area to keep it from going into other areas of the building. If they were doing like a column like that, if they were spraying it with insulation, they would have to cordon off the area around there.
Q. With like plastic sheathing?
A. Right.
Q. So do you know, before Covil goes in a plant – let's say in 1986 they are going to Bowater to do a project – whether any effort was made by Covil or at its direction to sample – there is bulk sampling that could be done, the insulating material that already exists, to see if the Covil people were working either with or around asbestos insulation when they came in to do a new project that didn't involve asbestos?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea that they did that.
BY MS. DEAN:

Page 75

Q. You do know that because of the spray insulation work done at Covil, that Tyvek suits and hoods and respirators and asbestos labels were available and on hand to Covil if they wanted to use them?
A. Correct.
Q. In trying to piece together, and I understand we are probably both doing this, what you believe this is referencing to, the part that doesn't make sense to me are the 75 asbestos labels. If this is purely being used for an asbestos-free process, why are you buying dozens and dozens of labels?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:
Q. Have you seen any records or references that there was a thought-out plan to make sure that Covil insulators, in the '70s and '80s, when doing any kind of maintenance or removal work that involved insulation, were taking protections or making efforts to assess the existence of asbestos before going into a plant or a facility to work with insulation?
A. Not to my knowledge.

Page 76

Q. Another document that just kind of referenced removal, that I didn't fully understand, that I want to hand you, is Exhibit 20.
(Plaintiff's Exhibit No. 20, List With Customer Number And Name, was marked)
BY MS. DEAN:
Q. First of all, this looks to be a computer-generated list. And it has customer number and name. Do you agree with that?
A. Yes.
Q. Do you have any idea of the date of this document or when a computer system even first became available so they at least have the earliest possible date?
A. I would have no idea.
Q. Is this a Covil-generated report, to your knowledge?
A. I'm pretty sure it is.
Q. Knowing the customer number associated with a particular customer name, does that allow you to search your records in any kind of new way?
In other words, if I know American Hoechst is customer number 756, do you organize any of your files by that number?
A. Possibly. But I would not know that.

Page 77

That's not something I handled or was familiar with.
Q. Okay. Have you done any kind of search of the files – my understanding, at some point they were trying to be electronically searchable by, first, the customer name, the actual name to see whether the companies we have listed, where our guys were working –
A. Yes.
Q. – showed up in the files. Was that done?
A. Did we, as Covil, do it?
Q. Yeah.
A. No.
Q. Similar question. Did you ever search your records by this customer number where you had them so that if we had a customer name listed – Bowater will be an example because it's in all three cases – where you found a customer number, did you ever search the number to see what records you could find based on that number?
A. No, we didn't.
Q. One of the things on here – before I move on, part of why I ask is, this document, while it lists a lot of customers for Covil, doesn't give us any specifics of where or when or the nature of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 78

the work. Right?
A. It does not. And it could be in anything from buying one box of material all the way up to doing a contract job.
Q. And the next page takes my example and gives it some teeth. I mean, one of the specific customers listed is Bowater Carolina Corporation for job number 3168.
Do you see that?
A. Now, what page is that?
Q. The second page.
A. Second page? Okay.
Q. Do you see where that's at?
A. Yes.
Q. Okay. If I wanted to know more about the nature of that job and when it began, to your knowledge, Covil hasn't searched their records either for Bowater Carolina Corp or for 3168?
A. Not to my knowledge. I would imagine this was a – that was their customer number and it was on file in their computers. And I'm not sure if anything was ever saved from the computers for our files or not when we closed.
Q. And whether it was or wasn't is not something you verified, at least –

Page 79

A. Correct.
Q. And if we look to Bates 8128, I mean, they list out Duke Power a dozen times –
A. Uh-huh.
Q. – and give customer numbers. And again, if I want to know, outside of the handwritten comment about the particular site – I mean, they do have handwritten Clifford and other names, but if I want to know anything outside of what's written here, Covil hasn't, to date, done a search of either the customer name or these particular customer numbers to understand better the scope of that project?
A. No, they haven't.
Q. The next page after that references Removal and Abatement. It's customer number 17363. Do you know what that's referencing?
A. Page – Bates 8125?
Q. 8129.
A. Oh, okay.
Q. And it's about two-thirds of the way down the page. And they are loosely alphabetical.
MR. RHENEY: I'm sorry, Jessica. What was that name again?
MS. DEAN: Removal and Abatement.

Page 80

THE WITNESS: Unless that was a company name that we sold some material to or something is, I would have no idea.
BY MS. DEAN:
Q. Okay. So in terms of either knowing anything about the specific entry Removal and Abatement or, more broadly, knowing what efforts Covil made to make sure they were removing or repairing asbestos in a safe way after they stopped selling asbestos, you can't give me any details?
A. That's true.
Q. I know the amount varied. And, again, this is something we learned from Palmer Covil's deposition, but in the '60s and '70s time frames and even going into the '80s, the amount of employees varied, but there were usually hundreds of employees working for Covil.
A. True.
Q. I want to get a feel for how much time or money or effort was spent by the company to prioritize safety by looking at a few records that I think you've probably looked at before.
First of all, do you know, offhand, either a percentage of total budget or an actual concrete number, how much money during any

Page 81

particular year Covil set aside for safety training, occupational health, any of those three categories?
A. As far as budget, I would have no idea.
Q. What about concrete numbers? Do you know if they ever spent more than $100 on anything there?
A. Oh, yes. We kept a complete supply of safety equipment in our offices and to pass out to job sites when they needed it.
Q. Let me ask a little bit more of a limited question, because I can see how you have, for instance, safety equipment hardhats and other things of that nature.
A. Right.
Q. In terms of how much money was spent on anything that could deal with a dust hazard, whether it be respirators, training, educational protocol, do you know how much money, in any given year, Covil dedicated to that kind of thing?
A. I can't speculate on that, but it would be in the thousands, I'm sure.
Q. Okay. Well, the first half and the second half is half of your answer.
A. I know. It don't –
MS. DEAN: So let me object potentially

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 82

to speculation –
BY MS. DEAN:
Q. – and ask you –
A. True.
Q. – before you got into the company, were you able to obtain any records? So before you had personal experience about how much money was being spent on safety.
A. No. I have no idea.
Q. Okay. Have you looked at the records that we do have about how much money was being spent on education or training?
A. I'm sure I looked over them, but I can't recall off the top of my head.
MS. DEAN: Do you mind handing me the stack of documents you've got there?
THE WITNESS: (Witness complies.)
MS. DEAN: And on the break I'll start organizing these.
THE WITNESS: While you're doing that, can I run back to the restroom?
MS. DEAN: Yes. Sorry.
THE VIDEOGRAPHER: Going off the record at 10:59:40.
(Break In Proceedings)

Page 83

THE VIDEOGRAPHER: This is the start of Media Unit No. 2. We are on the record at 11:12.
(Plaintiff's Exhibit No. 21, 6-3-80 Letter From Travis Cash To Mr. Dukes and Attachments, was marked)
BY MS. DEAN:
Q. I'm going to hand what you I have marked Exhibit 21, a document I got from Covil dated June 3rd of 1980. And it says: "Regarding Insulation Requirements."
Do you see that?
MR. RAINSFORD: I'm sorry, Jessica. What was that exhibit number?
MS. DEAN: 21.
MR. RAINSFORD: Thank you.
MS. DEAN: Sorry.
BY MS. DEAN:
Q. And in relation to Exhibit 21, I just asked you whether you saw that it was a Covil document from June 3rd, 1980. And it says: "Regarding Insulation Requirements."
A. Yes.
Q. Okay. We will come back to this later, but they reference that this is from Milliken Service Division. And one of the things the Covil

Page 84

president writes is that: "We have furnished insulation services for Deering-Milliken plants for the past 20 years and have enjoyed a very good relationship."
Do you see that?
A. Yes.
Q. And so in context of the last 20 years, that's from the 1960 to 1980 time frame.
A. True.
Q. Okay. The last two pages of this document appears to be an organizational chart. It says: "Piping And Equipment Insulation and Freeze Protection," and then "Organization of the Company."
Do you see that?
A. I do.
Q. In the Organization of the Company, it has the "board of directors," the "president and treasurer," the "senior vice president" and "secretary," the "vice president of contracts" and then the "controller." And it goes further down to talk about different suborganizations for Covil.
A. Uh-huh.
Q. Do you see where I'm at?
A. Yes.
Q. Including "spray, field staff,

Page 85

estimators, office managers, metal fabricating, warehouse, purchasing, salesmen, service managers" and one that I can't read, something "control."
A. "Customer service"?
Q. "Customer service," but at the end of the "vice president of contracts," there is one that says – starts with an "S" and says "control." Do you know what that says?
A. I don't see that. On the left side or right side?
Q. Left side, you have "spray, field staff, estimators" and then a box that I can't read.
A. "Sun control."
Q. It is "sun control"?
A. Yes. That's part of the Energy Division.
Q. And then – I mean, they go down to, depending on what group you're looking at, to the spray crew or field crew or the data entry person or the warehouse crew in this organizational chart. Right?
A. Uh-huh. Yes.
Q. What I don't see is any part of this chart that is a safety or medical or health component. Do you agree with that?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 86

A. Not specifically. It does not have it specifically on here, no.
Q. Okay. During any point in time that you're aware of before 1988, was there ever a Safety Department or a Health Department?
A. The Safety, as I stated earlier, was taken care of by the construction manager. However, part of my duties – and only because the safety equipment was kept in the office right next to my office or in the supply closet right next to my office – when the field men would need supplies, they would send their information in to the construction manager, and he would give me a piece of paper saying such and such job or so and so foreman needs so many hardhats, goggles, respirators, hearing protection, so forth and so on. And I would get those out of the supply closet, pass it on to him, and he would make sure it got to the job site.
Q. When did you do that, starting when?
A. Middle '80s.
Q. So in the middle '80s until 1989, when they stopped doing contracting, you would be involved in actually getting from the supply closet?
A. Correct.

Page 87

Q. Can you give me an idea of how many respirators they had on hand?
A. We had cases of them. I would have no idea how many we would have on hand.
Q. What is a case?
A. Probably 24 in a case.
Q. Were they the paper mask or were they respirator?
A. No. We had paper masks, but these were the neoprene respirators with the filter cartridges on both sides.
Q. Okay. Do you know, before the middle '80s when you were doing that, who handled that part of the process?
A. The field superintendent.
Q. Okay. And I think you said the construction manager and the field superintendent was the same person. That was Russell Johnson?
A. Yes, in some respects it was. And then later on when Russell was vice president, Jimmy Barnett was our field superintendent. And he is the one that we tried to contact and had dementia.
Q. Had dementia.
A. Yes.
Q. Okay. In the '60s and '70s time frame,

Page 88

would Russell Johnson have been the person that was the construction manager and field superintendent?
A. In the '60s?
Q. Yeah, '60s and '70s. And if I need to break it down, I can if it changed.
A. He was there when I started in '74. So I would say most likely, but I can't be 100 percent sure of that.
Q. Are you aware of anyone in the '60s and '70s time frame, other than Russell Johnson, who was involved with handling safety for the insulators?
A. For the what?
Q. Insulators.
A. Just the field superintendent or construction manager.
Q. And are you aware of anyone that had that role other than Russell Johnson at any point in time?
A. No.
Q. Given all of Mr. Johnson's responsibilities, do you know how much time he was able to dedicate to safety in a typical week?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:

Page 89

Q. Do you know if it was anybody's job to kind of monitor or regulate federal and safety rules that directly governed the business that Covil did?
MR. RHENEY: Object to the form.
THE WITNESS: There again, that would have to be the field superintendent.
BY MS. DEAN:
Q. I saw, in your father's deposition, Mr. Palmer Covil's deposition, you know, that they started ordering, for instance, the Federal Register when OSHA came out.
A. Right.
Q. But I'm just wondering, in terms of, more broadly, he said trade groups talked about it so they ordered it, but who was the person outside of Mr. Johnson, when he was the field superintendent, that was supposed to have the time to focus on that?
MR. RHENEY: Object to the form.
THE WITNESS: Personally, I don't know. But there are several people that could have possibly have handled that, but I have no person in mind.
BY MS. DEAN:
Q. Did you find any records at all, in your

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 90

review of the records for Covil, suggesting that safety protocols for working with asbestos were ever addressed with employees that would potentially be working with asbestos?

MR. RHENEY: Object to the form.

THE WITNESS: They – I'm sure they were addressed for new hires, for insulators. And that would have been the field superintendent's job to get with the foreman on the job site to manage the safety on the job site.

MS. DEAN: And let me object to speculation, which I might withdraw.

BY MS. DEAN:

Q. But when you say you're sure that that happened, how do you know that?

A. Because in my dad's deposition, he said they took all safety and OSHA regulations and guidelines very seriously and handled all the safety from then on in the late '60s.

Q. In terms of specifics, though, about how that were handled, for instance, whether new hires got a four-hour training class or whether there were pamphlets created, have you seen any evidence or indication of the specifics of how that was done outside of your father's belief that it was handled?

Page 91

A. We had an apprenticeship program –

Q. A what?

A. Apprenticeship –

Q. Apprenticeship.

A. – for new hires and new insulators. And Russell Johnson was over that. And safety was part of that training for them, to teach them how to be insulators.

Q. In terms of the specifics of what was taught, not just broadly on how to be an insulator, but specifically about health and safety hazards or work protocol for safely handling asbestos, can you give me any specifics about what was taught or when it started?

A. No. I wasn't there, so I have no idea what was discussed.

Q. In terms of the files, did you see any indication of – you know, sometimes when you're coming up with a safety protocol and you own a business, you know, there are people talking about it and memos are generated and there is version one to version five before it goes out to your employees. Did you see anything in the written record suggesting the development of or existence of a safety protocol for working with insulation that may contain asbestos?

Page 92

A. No, I never did.

Q. I know that Palmer Covil indicated that he was heavily involved with trade organizations. He went to conferences. He sometimes was an officer in some of those organizations. Outside of him, are you aware of anyone else who had membership in or whose costs were covered to go to those conventions or get that organization's materials?

A. None, other than my dad. I'm not saying they didn't. I just don't remember anybody other than him being involved in those.

(Plaintiff's Exhibit No. 38, 12-31-73 Accountants' Report and Plaintiff's Exhibit No. 39, 12-31-74 Accountants' Report, were marked)

BY MS. DEAN:

Q. I saw, in the records for at least a couple of years, Accountant's Reports. I'm going to hand you what I have marked as Exhibit 38 and then Exhibit 39.

What I found – and first ask you, are you aware if reports like this exist for any other year? You can see, at the bottom, it says December 31st, 1974, in Exhibit 39, and December 31st, 1973, for Exhibit 38. And they both

Page 93

say: Covil Insulation Company Accountants' Report.

A. What was your question?

Q. Do you know if these exist for any other year?

A. I have not seen any for any other years.

Q. If you look in Exhibit 39, which is the Accountants' Report for Covil in '74, you can first see that – and they've referenced on the third page, in their Income, the amount of Contract Sales versus Material Sales.

Do you see that?

A. Okay. Yes.

Q. And the Material Sales, just alone, where they were supplying materials, generated 3.389 million dollars in sales. Right?

A. I don't see that.

Q. It's the second line item, Material Sales, and the amount is $3,398,511.64.

A. Are you on 6-14?

MR. RHENEY: 2662.

MS. DEAN: I think you're on the right page, 22662.

THE WITNESS: I don't see "Contract Materials" on here. 16? 616?

MR. RHENEY: Which one are you looking

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 94

at?
MS. DEAN: Are you on Exhibit 39?
THE WITNESS: 616.
MR. RHENEY: No. That one, I think (indicating).
THE WITNESS: This one is 39. Actually, this is 38.
MS. DEAN: That's why.
MR. RHENEY: 39 is right beside it.
THE WITNESS: That's 40. Okay. I gotcha.
MS. DEAN: Can I see what you have? I'm worried that something was mislabeled. It was.
I'm just going to make the stickers reflect what we've been saying.
MR. RHENEY: That's going to be 39. Right? Okay.
BY MS. DEAN:
Q. And in case I misremembered what I said, we have marked Exhibit 38 and 39, where Exhibit 38 is the Accountants' Report for December 31st of 1973, and Exhibit 39 is the Accountants' Report for December 31st of 1974.
Do you see that?
A. Yes.

Page 95

Q. And I apologize for the confusion I created.
A. That's fine.
Q. On the third physical page, which is Bates 22662, it has "Income" as the first item.
Do you see that?
A. Yes.
Q. And there are literally millions of dollars of sales reported, specifically 3.389 million plus some change.
A. Yes.
Q. Okay. And if you look to the 1973 report that's marked as Exhibit 38, it's even more. You can see on 22616 they have over $4 million in materials that are sold both in 1973 and in 1972. And in 1972 you have almost four-and-three-quarters million.
A. Yes.
Q. And so in terms of just the sale of insulating materials for the years that we have documentation, you're showing millions of dollars of sales. Correct?
A. Correct.
MR. RHENEY: Object to the form.
BY MS. DEAN:

Page 96

Q. Do you have any reason to believe that these amounts wouldn't be typical of earlier years?
MR. RHENEY: Object to the form.
THE WITNESS: Well, they varied from year to year, of course. But they were – contracts was our biggest income generator. I would say 60/40.
BY MS. DEAN:
Q. Yeah, that's what I'm seeing in these three years.
MR. RHENEY: I'm sorry. I think he was still answering.
THE WITNESS: No. I'm through.
MR. RHENEY: Okay. Thanks.
MS. DEAN: Sorry.
BY MS. DEAN:
Q. And in terms of what that 40 represents, I do see that – you know, that it varied from 3. – almost 4 million to 4.7 million. But what you see is the material part, which was the smaller part, generated –
A. Right.
Q. – at least millions. And whether that's 3 or 4 or 5 varied, but millions of dollars of sales for Covil. Do you agree?

Page 97

MR. RHENEY: Objection.
THE WITNESS: Yes.
BY MS. DEAN:
Q. And would that kind of range be typical for what the company had in prior years?
MR. RHENEY: Object to the form.
THE WITNESS: I can't answer that. I don't know.
BY MS. DEAN:
Q. Have you made any effort to figure that out?
A. No.
Q. One of the things in Exhibit 39 I saw was a line item for "Education and Training." And on the next page it talks about "Direct Cost of Contracts," and that's Bates-labeled 22663.
Do you see where I'm at?
A. Yes.
Q. Okay. And the amount that they dedicated to the Training and Education was $5.10. Correct?
A. Yes.
Q. And I will represent to you in Exhibit 38, there isn't an item for education or training.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 98

Do you have any information, outside of what's in Exhibit 38 and 39, about the total amount of money spent, either in these particular years or in prior years, on training and education?
MR. RHENEY: Object to the form.
THE WITNESS: No, I haven't. Other than what's stated here, I have no idea.
BY MS. DEAN:
Q. Okay. In terms of not just sales but actual net profits, Covil had years where they made a million, two million, and sometimes more in net profits from the work that they did with insulating, contracting work and sales?
A. Yes.
Q. I'm sorry?
A. Yes.
Q. Do you know if even one/tenth of 1 percent of that money was ever dedicated to safety?
MR. RHENEY: Object to the form.
THE WITNESS: Personally, I do not.
BY MS. DEAN:
Q. Did Covil have a quality assurance program at any point in time that you know of?
A. They did. Because the field

Page 99

superintendent, he would discuss that in his apprenticeship program. But as far as what he went into as part of his discussion, I don't know.
Q. Yeah, I saw reference to that in some of the documents that you had to verify when you were bidding for something, a quality assurance program. But in terms of the specifics of what that was, when it started, do you know anything more than the existence of the program?
A. No, I don't.
Q. Do you know if any of quality assurance related to anything about asbestos?
MR. RHENEY: Object to the form.
THE WITNESS: No, not right offhand.
BY MS. DEAN:
Q. I handed you Exhibit 10 earlier. There was a reference in that that I didn't understand, but I'm hoping you can clarify for me. It's the May 4th, 1982 Contractor's Surveyor Form. I'm about to hand it back to you. This is your copy. But it looks like there is a Contractor's Qualification sheet that talks about who the principal officers are, when it was organized. And at the end it says their Contractor's Liability Rating is .76. Let me give you a second to look at that and just confirm

Page 100

that you see that as well.
MR. RHENEY: What is that exhibit?
MS. DEAN: Exhibit 10.
THE WITNESS: Exhibit 10.
MR. RHENEY: Thanks.
THE WITNESS: What was your question?
BY MS. DEAN:
Q. It references that there's a Contractor's Liability Rating in this form, and it's listed here as .76.
A. Yes.
Q. First of all, just do you see that?
A. I do.
Q. What is that, if you know?
A. I have no idea. Never seen that before.
Q. Have you seen, before I handed it to you, more broadly, this Contractor's Qualification Statement?
A. Yes. I went over it – glanced at it, yes. It has got officers on there and everything?
Q. Yeah.
A. Yes.
Q. I've seen different variations of this, at least a handful of them in the document. It's on Covil letterhead or Covil – it has the Covil label

Page 101

on it.
Do you see that on the second page of Exhibit 10?
A. I do.
Q. Do you know if the Qualification Statement was a Covil-generated document or if it was some kind of bidding form created by someone else or anything about what was the purpose of this statement?
A. I don't – to be honest, I don't really know.
Q. What I see repeated in it is background information about the company, who their principal officers are.
A. Right. It gets into banking information, so I would say it was Covil-generated.
Q. It also, yeah, provides the financial information, construction volume for the project being discussed. And then it has a list of major suppliers, and it says, Look to the reference list. And then I see often a very similar resume of work performed.
Do you – are you following what I'm seeing?
A. Yes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 102

Q. Do you know who created the resume, whose job it was to do that?
A. I do not.
Q. Just because it's a resume, it seems to me that this is used as some kind of pitch to get work. But I'm not sure if you know that or if you can tell me anything about that.
MR. RHENEY: Object to the form.
THE WITNESS: I would agree, but I don't know for sure.
BY MS. DEAN:
Q. Okay. When you saw, on the records, a list of work that had been done by Covil in these resumes, did you do anything to try to – in those places where you knew work was being done that overlapped with locations that we're trying to figure out about – do anything to learn if there was something above and beyond what's listed here about these particular projects?
A. Not that I know of.
Q. And, again, to make it a little less abstract and give it a concrete example, in Sizemore, one of the locations listed is Champion Paper. On Exhibit 10 we have that Champion Paper is a place, in the resume of work performed, where they

Page 103

did hundreds of thousands of dollars of work, where the prime contractor is Daniel, where the type of work is insulation, and where it happened in 1965. Right?
A. Yes.
Q. And when you saw all of these things, was any concerted effort – given the location and that it was insulation work and that it's listed in these notices, was anything further done to figure out the scope of that work or the nature of that work?
A. From Covil?
Q. Yes.
A. No.
Q. Did you review any of Daniel Construction's documents that were made available in this case in order to be able to talk about the scope of the work done by Covil, at Champion, where it lists Daniel as the prime – or subcontractor on that job?
A. No, I never looked at any Daniel paperwork.
Q. Do you have any basis to dispute that insulation work done at a paper mill, specifically here, Champion Paper, in 1985 would have been

Page 104

asbestos-containing insulation, just given the location and time frame?
MR. RHENEY: Object to the form.
THE WITNESS: No. I have no idea if – what the material was or what the work on the job site was.
BY MS. DEAN:
Q. Is there anything that Covil can state, just based on the amount – it says magnitude of the contract based on dollars – that it was $225,000 of work, what – are they able, from that, to deduce anything? That it was big a project, a small project, it would have taken more than four weeks, anything that can give me –
A. I don't know of anything, as far as paperwork is concerned, pertaining to that. But the price of the job would – common sense would tell you whether it is a big job or a small job.
Q. And here, in terms of the resume of work performed, I mean, they have things that go from 150 – 125, I see as being the smallest, to 3-and-a-half, 4 million dollars. There's even a 5-million-dollar job on here, but they are listing, in their resume, their larger work projects. Right?
A. Right.

Page 105

Q. Was there any system in place – I mean, if you got Mr. Johnson or if there was somebody other than him ever doing the job of going out and making sure the foremen are handling safety, was there any system in place to make sure the foremen knew what they needed to be doing, had checklists, were supervised so that the men on the job, on the ground, who were supposed to be enforcing the safety rules, were, in fact, doing what they were told to do?
MR. RHENEY: Object to the form.
THE WITNESS: That was the field superintendent's duties to follow up on that. There was a safety check sheet that I saw when I was going through the paperwork. Now, I'm sure – well, I'm not sure, but I would think the foreman on the job would be the one to fill out that paperwork on the job site and pass it on to the field superintendent.
BY MS. DEAN:
Q. I saw a checklist as well. Did you note on there that there is nothing in it that relates to asbestos safety protocol?
MR. RHENEY: Object to the form.
THE WITNESS: I didn't notice that.
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 106

Q. Can you tell me what process was put in place by Covil to make sure their foremen were empowered and being monitored so that the goals of the company were actually being executed on the ground?
MR. RHENEY: Object to the form.
THE WITNESS: It was their jobs to keep up with the timecards for all the men on the job under them; their attendance, their equipment, safety equipment and whatever other equipment they needed on the job. That was the foreman's responsibility. And the field superintendent did make job checks and periodically go to the job sites to follow up on a lot of that.
BY MS. DEAN:
Q. Do you agree or does Covil agree with the basic idea that if a foreman who is supposed to be monitoring safety equipment and safety issues has too little or too many issues, that that sets up an alarm bell either way?
MR. RHENEY: Object to the form.
THE WITNESS: I cannot address that because I wasn't there. And there are so many different things going on with different jobs and so many people there that have different duties and job

Page 107

descriptions, I don't – I don't know how to answer that.
BY MS. DEAN:
Q. And I mean to ask at least what I perceive is a common sense enough question to cover the vast majority of situations. If a foreman is supposed to have the checklist of safety and you never have a problem or you have hundreds of problems, both would tell management in a company that you particularly had a red flag. No job is perfect, so if you're not getting anything, somebody is not doing their job. But you don't also want to see too many problems and routine problems. And that's a fair, kind of common sense proposition.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Do you agree?
MR. RHENEY: Object to the form.
THE WITNESS: I would agree, but it would be different. It's a different situation. Each job is a different situation.
BY MS. DEAN:
Q. Sure. So if you have a job involving two years of work versus two months of work, the number of incidents that you might expect would be

Page 108

very, very different. Right?
MR. RHENEY: Object to the form.
THE WITNESS: All jobs are different. Yes.
BY MS. DEAN:
Q. Did you see a single document, in your review, indicating that any foreman ever wrote down an issue regarding asbestos insulation not being handled properly, even once?
A. I never saw it.
Q. Some of the insulating contractors that were referenced in Mr. Palmer Covil's deposition – I keep almost saying just his last name and realizing that's not the best way to do it – were Starr Davis, North Brothers, Guy Beaty, and Reid Hayden. First of all, do you recall that?
A. Yes.
Q. And he indicated that sometimes there would be shorts, and they would provide insulating materials to those folks. I'm wondering if you can give me any idea how often, whether records were kept of that, if I could learn more about when and where.
A. I know that did happen. Each insulation company would buy from another insulation company if

Page 109

they were short on material on a particular job or a material sale. I have no idea how much or when or anything, since I've seen no records pertaining to that.
Q. So if I want to know for Starr Davis, during the time frame when they were doing most of the insulating contract work, at least according to Wayne Grant, at Bowater –
A. Right.
Q. – have you done any kind of research or effort to figure out whether we can piece that together?
A. I haven't.
Q. I also have seen documents where Covil – and Mr. Palmer Covil talked about this as well – but where Covil was doing work with Daniel Construction. We looked at Exhibit 10 where we saw that in four instances. Do you know when that relationship began?
A. With Daniel?
Q. Yes.
A. Probably around the '50s, early '60s.
Q. I saw documents at least going back to the '50s. Have you made any kind of evidence – any effort to kind of identify the different projects

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 110

where Daniel hired Covil to either supply them the insulation or to be the contractors who are supplying the insulation and actually doing the insulating sub work?
A. No, I haven't.
Q. It was a strong enough relationship where Daniel was one of the references listed in those references listed back repeatedly. You saw that. Right?
A. Right.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Between the 1950s – and I know you couldn't give me a particular year, but between the 1950s as the decade and the 1980s, are you aware of a single year where Covil wasn't doing work on Daniel's request?
A. I have no idea.
Q. Does Covil have – I mean, Covil was, in the documents we have even looked at, and not only an insulating contractor, but they wrote in their documents, This is our expertise. This is what we do. Right?
A. Yes.
Q. And Palmer Covil talked about making

Page 111

extensive efforts, as the president, to stay on top of the trade and on top of the latest information about the trade. Right?
A. Right.
Q. Can Covil give me an idea of when you put in thermal insulation for, let's say, a heated system where you have the effect of heat on insulation, how long it typically should last?
MR. RHENEY: Object to the form.
THE WITNESS: I would have no idea.
BY MS. DEAN:
Q. I'm going to test that a little. When you say you have no idea, you are aware, first of all, that Covil is a company that were insulating contractors for hot systems for decades – did at least at some point –
A. True.
Q. – time again. And insulation, because there were repair and maintenance contracts that lasted sometime weeks, sometimes years, was something that could be maintained for years, if not decades. Did you know that?
A. Yes.
Q. And when it became understood – you mentioned earlier that there was noise in the

Page 112

mid-'60s, but even in later years when it was more established that asbestos caused health hazards, did Covil make any effort to go back to the locations where it already had been working, to identify the hazard information they were learning to the people that had asbestos in their hospitals or facilities where that asbestos still likely existed?
MR. RHENEY: Object to the form.
THE WITNESS: I don't know that they did that.
(Plaintiff's Exhibit No. 28, 11-1-89 Letter from John Link to Bob Britton, was marked)
BY MS. DEAN:
Q. I want to hand you what I have marked as Exhibit 28. It's a November 1st, 1989 document from President and CEO John Link at Covil Corporation.
Do you see that?
A. Yes.
Q. In this letter – if you need to look at it for context, but it's kind of dealing with rumors about what's happening with Covil Corporation in the wake of deciding not to be contractors anymore.
A. That is true.
Q. One of the things that he says is for – the financial decision to abandon contracting is

Page 113

listed in the fourth paragraph where it says:
"Other reasons were our past exposure to asbestos and with us being almost a 45-year-old company, we had many insulators that have been exposed to asbestos over the years and this caused our insurance premiums to be outrageous."
Do you see that?
A. Yes.
Q. Any reason that Covil doubts the accuracy of this statement by its presidents and CEO at the time?
MR. RHENEY: Object to the form.
THE WITNESS: Not that I can tell.
BY MS. DEAN:
Q. It talks about, in 1989, that the insurance premiums are outrageous. Can you tell me anything more concrete about what was meant about the amount of those premiums?
A. I don't know the amount specifically of what, but I am slightly familiar with the insurance. I know we had insurance. But as far as the premiums, I would have no idea what the costs of them were.
Q. And I'm going to try to go year by year and get my head around the insurance stuff probably

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 114

after lunch today, but – so I will table that and maybe we can piece that together in context.

But let me ask you this. Outside of providing people that are worried about Covil's status, information about what was going on and mentioning that people have been exposed to asbestos and that it had a financial repercussion for Covil, do you see any reference, in any other document before this time, talking about asbestos as a hazard or an exposure threat so that the people that may be around it or working with it had information?

MR. RHENEY: Object to the form.

THE WITNESS: No. This is the only thing I know I saw. However, my dad's deposition states that they were aware of it, and he had heard rumors or noise about it, you know, in the '60s.

And when OSHA was instrumenting, they took all the precautions and everything they needed to do safetywise to protect the employees and the workers.

MS. DEAN: I'm going to object to nonresponsive and the speculation part, because I want to talk to you about how you know that later.

BY MS. DEAN:

Q. But let me incorporate what you just

Page 115

told me and see if we can get a clean question and answer. Outside of what we have marked as Exhibit 28, where the president is talking about the hardship on Covil because people are exposed to asbestos in the way of insurance premiums, are you aware of anything in the written documents, anything other than your father's belief, in his deposition, that things were happening that show that the people working with or around asbestos potentially were told that they may be exposed or that there are hazards associated with it?

MR. RHENEY: Object to the form.

THE WITNESS: No, I have seen nothing pertaining to that.

BY MS. DEAN:

Q. Did Covil certainly understand, all the way up to its president and CEO, that if insurance premiums are hiking, if there is a cost associated with this exposure, that there is a harm associated with the exposure. Right? And that's kind of a common sense proposition.

A. Well, can you be more specific?

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. Sure. That not just in general, for

Page 116

Covil, with their premiums for the work they had their men doing, there was a cost associated with that work because of the harms associated with asbestos for their men that worked as insulators.

MR. RHENEY: Object to the form.

THE WITNESS: It just depends on the insulation – I mean, the insurance that they were – insurance premiums that they were charging us, it was depending on how much – I keep saying insulation. How much insurance that we would carry and what the prices and premiums would be.

BY MS. DEAN:

Q. And I just mean if you're a president and CEO of Covil and you understand that premiums are hiking, there is directly a common sense analysis that if insurance is paying for something, if the cost of covering it is there, the harm is something that's being paid for. In other words, there is a back-end result that involves somebody getting sick. That was understood, as we can see by the president's letter in Exhibit 28.

MR. RHENEY: Object to the form, argumentative.

THE WITNESS: I see what you're saying, but I have no personal proof of that or knowledge.

Page 117

BY MS. DEAN:

Q. By 1989, the president – then-president of the company not only wrote about exposure to asbestos for many of Covil's insulators, but by that time their prior president, your father, had passed away?

A. Yes.

Q. When the president of the company gets a disease that takes his life that's associated with asbestos, but he, in his own deposition, indicates it is associated with asbestos, did you see any evidence in the file that that became a siren to everyone else about how serious this is?

MR. RHENEY: Object to the form.

THE WITNESS: No, I never did.

BY MS. DEAN:

Q. Do you have an estimation of when Mr. Johnson passed away, the field superintendent?

A. Yeah. No, I don't know the exact date. I'm thinking three, four, five years ago.

Q. Is Curtis Cash the same person as Travis Cash?

A. Yes.

Q. Okay. I see Janice Perry listed, in at least some of the documents, as an officer, and

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 118

couldn't tell from your father's deposition who that was.
A. She was his secretary for a while – my dad's secretary for a while, and also administrative assistant to the office manager.
Q. And at one point she became an officer in the company?
A. Yes, she did.
Q. Do you know if she is still alive?
A. I have no idea.
Q. Do you have any idea of what decade she might be in, in terms of age? Seventies, eighties?
A. I would hate to speculate on that.
Q. That could get you in trouble.
A. Let's just say she is older than I am, probably.
Q. Okay. I did not have a chance to pull the subset of documents that were represented to me to be a part of the greater set of documents that were insurance related. First of all, do you know what I'm talking about?
A. No.
Q. Okay. I have a set of documents that deal with insurance. But I worry – I wonder if it makes sense, on our lunch break, to kind of

Page 119

reference whether I have a complete set and just get us –
MR. RHENEY: Sure. I'm happy to do that.
MS. DEAN: Okay. In that case, I'm going to set that aside until after lunch.
BY MS. DEAN:
Q. In terms of the insulating products sold by Covil for many years, you're aware, from Palmer Covil's deposition, that he, himself, at least at one point in time, was part of the union and that "asbestos" was in the title of the union.
A. I know that now. I never knew that before.
Q. In terms of the dates that your father's deposition referenced about when products were used, any reason we can't rely on those for many of the research that you have done?
In other words, he said OCF was used from 1954 to 1977. I understand they may have been used in later years. But anything from your review that suggests that the years – that the start years that he identified were off?
A. No.
Q. Okay. He indicated, in volume two of

Page 120

his deposition, that American Enka was a company that they had had a large file on in terms of working with them for many years. First of all, do you remember that?
A. Who was that?
Q. It was in volume two of Palmer Covil's deposition.
A. No. What company?
Q. Oh. American Enka.
A. American Enka.
Q. Yes.
A. I'm familiar – I'm not – I'm familiar with the company. I knew we did work there, but I'm not –
Q. So when he says, "We have worked with them for years," in 1977, if I want to try to nail down how long, is that anything that you have investigated?
MR. RHENEY: Object to the form.
THE WITNESS: Probably before '73 there would be no files whatsoever.
BY MS. DEAN:
Q. I'm sorry. Before '73 what?
A. Before '73, when we had the fire, there would be no files, no paperwork at all. I can't say

Page 121

whether or not there is any files after that.
Q. So there were ten places that seemed to be the subject of the deposition taken of Mr. Palmer Covil in 1977. And we have obviously more than ten. And I looked through the exhibits that were attached to that. What I'm wondering, because the deposition was taken after the fire, is if there was anything that wasn't attached to that deposition about those ten locations, that you have looked for or found –
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. – because one of those locations is American Enka, which is relevant here. Do you know anything else about that?
MR. RHENEY: Object to the form.
THE WITNESS: No, I don't.
MR. RHENEY: Help me. I'm not sure what you're asking. That's why I'm objecting, mostly. I'm unclear what you're asking.
BY MS. DEAN:
Q. The beginning of volume two is a discussion of the lawyers saying "I have provided to the plaintiffs a file for these ten locations. If the defendants want anything else, we can get it."
Thereafter, they reference that two of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 122

the locations are America Enka and Fiber Industries, which I will represent to you are in our notices as well.

I didn't see a file as attached as an actual exhibit to the deposition, and so it existed; it existed post-fire. Has anybody tried to find that? It's a long-winded question, but it gave me hope.

A. I can't say yea or nay, whether it exists or not. I don't remember seeing it.

Q. Outside of not remembering seeing it, the same trigger point didn't go off in your head to look for it when you saw that testimony from him?

A. No.

MS. DEAN: That's one in particular. I mean, there is going to be a few things I'm going to follow up after today, but if there is any way to look for that before tomorrow, I think that makes the top of the list of being important.

MR. RHENEY: So you're looking for files for the eight that were mentioned, but there were no files attached to the deposition.

MS. DEAN: If you look at the beginning of volume two, I mean, it's truly the first five pages –

Page 123

MR. RHENEY: Yeah.

MS. DEAN: – they say that there are ten locations and that files existed. He references, just from memory, four or five of them in the first two pages, two of them being locations at issue. I would love to know what all ten locations are and not just those four. And then those files, post-fire, existed. But I didn't see that there was an American Enka. I saw a couple referenced to American Enka, but nothing that would be considered a job file.

MR. RHENEY: We can search for it. I do know, as far as the documents produced, you've got everything we've got. Well, there were certain things that we didn't produce, but that wouldn't have been one of those things, I wouldn't think, but I'll double-check.

MS. DEAN: Okay. Appreciate it.

BY MS. DEAN:

Q. You mentioned earlier that you believed, after the fire, which was reported to be on May 15th of 1973, no more asbestos products were sold. Do you remember telling me that?

A. Right.

Q. Was that based solely on Mr. Palmer

Page 124

Covil's belief that that was so from his deposition testimony from 1977?

A. Yes. But I remember – yes, it was all based on what he said in his deposition. But I do remember the fire, and it wiped out every bit of our inventory in our warehouse.

Q. If there are records that indicate that much but not all of the warehouse was destroyed, do you have any basis to dispute that?

MR. RHENEY: Object to the form.

THE WITNESS: I would have to see them.

BY MS. DEAN:

Q. I think you still have Exhibit – it's either 38 or 39. It's one of these accounting documents. Yeah. It's Exhibit 38, 22618: "In May, 1973, the Corporation experienced a fire which destroyed the bulk of its Greenville inventory, its leasing the building, and a portion of its equipment." Any basis to dispute that?

A. No.

Q. Any way to give me a more concrete definition of "bulk"?

A. Let's just say they had to rebuild the whole warehouse from the front offices, which were brick and mortar, all the way back.

Page 125

Q. Were there any residential communities near this fire?

A. Yes. Behind there, behind the warehouse there was a few houses. But the whole office area was in an industrial park, so there were other businesses through there. But right behind there, there was residences.

Q. Do you have a single document evidencing a decision at any point in time, really, before or after the fire, since we still have the branches that weren't affected by the fire, not to use asbestos? I think I asked this question kind of in a different context earlier, but I want to make sure I'm not missing anything.

A. Can you restate your question?

Q. Sure. Anything that suggests in 1973, or at any point in time before or after that, that the company made known to everybody – their suppliers, the people that were ordering, the companies that they were working with – that, "Hey, we're not working with or supplying asbestos anymore"?

A. I'm not aware of that.

MR. RHENEY: Object to the form.

WITNESS CONTINUES:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 126

A. But my dad did say, in his deposition, that it would take roughly a year to get all the asbestos products turned over and out of the warehouse. And I'm sure that would – I would think that would include the branches also.
Q. And outside of –
MS. DEAN: Well, sorry. Let me object to nonresponsive.
BY MS. DEAN:
Q. But outside of his belief that it would take a year, did anybody monitor that? And the reason I ask that, particularly, is if it typically took a year to exhaust inventory, 1973, in asbestos land with insulation, isn't a typical year. I mean, it just, objectively, isn't. I mean, did anybody see how long or monitor how long it took to get rid of something that people didn't want to touch anymore?
MR. RHENEY: Object to the form.
THE WITNESS: I don't know. I wasn't there then, so I have no idea.
BY MS. DEAN:
Q. There was testimony from Dwayne Waters that there was still asbestos that existed years after that that was being used by the company. Do

Page 127

you have any basis, outside of Palmer Covil's memory and that we have in his deposition, that he is wrong?
MR. RHENEY: Object to the form, argumentative, and – (cross-talking.)
THE WITNESS: We have no proof of that.
(Plaintiff's Exhibit No. 32, H.K. Porter Company, Inc. Document, was marked)
BY MS. DEAN:
Q. I want to hand you Exhibit 32, which is a document I received from Covil. Would it surprise you that there is documentation that asbestos was being purchased and sold, literally, days after the fire?
MR. RHENEY: Object to the form.
THE WITNESS: No, it wouldn't surprise me, because if certain jobs that we were on, I'm sure, called for asbestos-type insulation. And I have – but I have no proof that that was actually done. But we had to get companies to rewrite specs a lot after we quit using asbestos, because they would spec asbestos materials.
BY MS. DEAN:
Q. I think I'm following what you're saying, but you're saying even after '73 a company

Page 128

might specify the use of asbestos?
A. Asbestos, yeah.
Q. How would Covil handle that?
MR. RHENEY: Object to the form.
THE WITNESS: Covil would go to the contractor or the vendor and – I mean, the customer and discuss with them that we no longer carry asbestos and would make a substitute or recommend another type of material.
BY MS. DEAN:
Q. Is there a single document – and I mean you referenced, in the universe of documents, there are specifications and invoices that show that that happened in the 1970s or in the early 1980s where someone specified asbestos, like you just said, and Covil came back and said, "No, we can't get that for you"?
A. I don't know of any, right offhand.
Q. Here is an invoice for asbestos textile products from H.K. Porter – or H.K. Porter Company, sold to Covil, and then shipped to Covil at Duke Power.
A. Yes. This was asbestos cloth. And asbestos cloth was an encapsulated material and it provided no dust and it was OSHA approved.

Page 129

MS. DEAN: I will object to nonresponsive and speculation and just ask about that in a minute. Give me a second to write it down.
MR. RHENEY: What exhibit was that, by the way? What exhibit number?
THE WITNESS: 32.
MR. RHENEY: Thank you.
BY MS. DEAN:
Q. My question was this is an invoice regarding asbestos textile products from H.K. Porter to Covil Insulation Company, where it was being shipped to Covil Insulation but where they were working at Duke Power Company.
A. That is true.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. And the date of that is – and specifically, it's a customer order date is two weeks after the fire on May 30th, 1973. Right?
A. Right.
Q. And it's for hundreds of yards of asbestos, plain asbestos cloth. Right?
A. Yes.
Q. And in terms of cloth, when you say

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 130

there was no asbestos used after '73, were you just meaning insulation or are you including cloth, yarn, sealants, adhesives, or do you know?
MR. RHENEY: Object to the form.
THE WITNESS: I was talking about pipe covering, basically, or block.
BY MS. DEAN:
Q. Do you know, for products other than pipe covering and block, when was the last time Covil supplied asbestos? So excluding those two types of products, but for any other type of product.
A. '72 to '73.
Q. How do you know that, whether it be cloth or sealants or adhesives, that asbestos products weren't being used?
A. We changed over our mud from a One Shot, which contained a small amount of asbestos, to Covilite, which contained no asbestos. That's one example. And we have a letter from Owens Corning, in 1972, stating that they no longer are making or providing asbestos materials.
Q. Anything else?
A. Other than my dad's deposition, what he had to say about it.

Page 131

Q. Do you have any documentation indicating when the One Shot to Covilite transition occurred?
A. I'm thinking '73 maybe; '72, '73.
Q. Do you have any documents that show that? I mean, you got there in '74, so I'm wondering, how did you know of that?
A. It may have been in his deposition. But I don't recall how I remember that. I do remember Charles McWhorter mentioning that he thought that the One Shot had no asbestos in it at all. But my dad states, in his deposition, that it had three-quarters, like 1 percent. And when we changed over to Covilite, that had no asbestos in it.
Q. But if I want to see documents that evidence that Covilite had no asbestos or documents about when the change occurred – I mean, I did see the Covilite – or the One Shot asbestos content reference and the claim that Covilite was asbestos-free, but I didn't see any material specifications or an exact time frame. Is there anything you can point me to?
MR. RHENEY: Object to the form.
THE WITNESS: Not to my knowledge.
BY MS. DEAN:
Q. So if I want to broaden this, not just

Page 132

to mud and one of the lists of distributors, like to all products, whether it be CertainTeed or Johns Manville or any of other products that we looked at, to say there was a time frame, it was '72 or '73 that we stopped using asbestos, do you have anything you can point me to that evidences that?
MR. RHENEY: Object to the form.
THE WITNESS: Other than my dad's deposition, nothing that I've physically seen.
BY MS. DEAN:
Q. And even in the time frame of his deposition, I mean, did you see any records to indicate that for other major suppliers – I think they listed the four major suppliers – an effort to learn when they went asbestos-free, an effort by Covil to make sure that they were only selling the asbestos-free type?
A. I don't recall anything.
Q. And then for products that aren't insulating products – well, they could be insulating products. So let me say other than block and mud, for other products like sealants or packing or gaskets or cloth, did you see any indication in any records you could find, about even trying to figure out whether they contained asbestos or not,

Page 133

before selling them, by anyone at Covil?
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. Has there been any effort to figure out when was the first time H.K. Porter, one of the distributors that we already listed out, even had an asbestos-free alternative that they supplied for the asbestos cloth that we show being sold to Duke in 1973?
A. No, I haven't seen it.
(Plaintiff's Exhibit No. 44, Memorandum from Covil Insulation Company, was marked)
BY MS. DEAN:
Q. I want to hand you what I have marked as Exhibit 44. And while I'm grabbing that, are you aware of who was in charge of supply or maintaining the warehouse – those might be different folks, but at any of the four branches?
A. No. The other branches –
Q. Yeah.
A. – I had no idea.
Q. Yeah. Are you aware of any verbal or written communication to any of them to say, "Hey, we are not going to sell asbestos anymore, at any

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 134

time, for any reason"?
A. I don't. No.
Q. I'm going to hand you Exhibit 44. It's just a one-page document from 1982 from Covil Insulation Company. You can see there, this is February 19th, 1982, and it's a description of articles that are being sent from Covil to whatever company that they reference. Right?
A. Yes.
Q. It seems like it's a form that you fill out who you're sending it to and exactly what you're sending. Right?
A. Right.
Q. And in order to streamline the process, they have kind of pre-created columns, one that talks about the number of packages and then you fill out the number; one that gives a description of articles, special marks and exceptions and that's already autopopulated. And then you can fill in weight, class or rate and check column. Right?
A. Yes.
Q. And four of the materials, all the way in the 1980s, still contain, in the description of what Covil is offering, asbestos materials. Right?
MR. RHENEY: Object to the form.

Page 135

THE WITNESS: I'm not – I don't know about that. I have no idea.
BY MS. DEAN:
Q. So what I'm seeing in the "Description" in this Covil form, on the very first one, is: "Insulating Material, Silicate, Calcium and Asbestos Combined"?
A. Right.
Q. And the second, a "Calcium and Asbestos Combined Insulating Material." And then halfway down, one that just says: "Asbestos Cement," and then the second to the bottom, "Asbestos Cloth"?
A. Right.
Q. Do you at least see where I'm referencing the document?
A. Yes, I do.
Q. And outside of Covil having a form that includes a variety of asbestos products, even into the '80s, is there any documents, kind of on the other end, saying, "Just kidding. Don't ever use those? In fact, it's a policy we can't."
MR. RHENEY: Object to the form.
THE WITNESS: No, not that I know of. But I'm sure this was a generic form that had been used for years.

Page 136

BY MS. DEAN:
Q. That could completely make sense to me –
A. It's possible.
Q. – depending on the context. But if you're making a policy as a company that a certain material cannot be used, particularly if it has financial consequences for the company and financially disastrous consequences for the families?
A. I see what you're saying.
MR. RHENEY: Object to the form, argumentative, relevance.
BY MS. DEAN:
Q. For any of the different locations that we have marked in Exhibits 1 through 3 where we list out the locations relevant for each of these families, does Covil have any information, that you're aware of, of when abatement efforts were made in any of those companies?
MR. RHENEY: Abatement efforts were made what?
MS. DEAN: In any of those companies.
BY MS. DEAN:
Q. So by way of example, when Bowater hired

Page 137

in specialists to come in and take all the asbestos out?
A. I haven't seen anything.
Q. Okay. Did you note when your father indicated, as the former president of the company, in his deposition, that nothing worked as well as asbestos?
A. Pardon?
Q. That nothing worked as well as asbestos in terms of insulating material?
A. I do remember that.
Q. If you have a form that lists asbestos and you also have this real practical knowledge that it works well – I mean, it does the trick, it is self-evident to a company that if you don't tell people not to use it, they are gonna?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Is that fair?
MR. RHENEY: Object to the form. Calls for speculation, argumentative.
A. I can't – I can't – I don't know what he was thinking, so I don't know, at that point, what he was saying or doing.
Q. Covil realizes, as a company, that if

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 138

you have a useful product; in fact, a product that works better than anything else that you're aware of at the time frame, that if people don't know a reason not to use it, that there is at least the potential or opportunity that they will?

MR. RHENEY: Object to the form, calls for speculation, argumentative.

THE WITNESS: I don't know. There is – there are too many ifs, ands and buts pertaining to that.

BY MS. DEAN:

Q. Are you aware of a single effort to make sure that asbestos, which was what the president of the company believed worked the best, wasn't being used, even in 1977 when he made that claim?

MR. RHENEY: Object to the form.

THE WITNESS: I can't speculate on that either.

BY MS. DEAN:

Q. Outside of speculation, I'm just asking if there is anything that you're aware of that you can point me to?

A. None.

Q. For any of the companies on the list, and I'm going to start with the Howe list, with the

Page 139

five companies there, which is American Enka, Crown Cork & Seal, the two Celanese sites and Bowater, are you aware or is Covil aware that their actual trade business or occupation was the same as Covil's, to be insulating contractors?

A. That those companies?

Q. Yeah.

A. They were not insulation contractors.

Q. Is the same true for the list for Sizemore? Meaning that the companies on that list, their trade, business or occupation was different than Covil?

A. Different, yes.

Q. Same for the list for –

MR. RHENEY: I'm sorry. What? Same for what?

MS. DEAN: For the list for –

THE WITNESS: Childers?

MS. DEAN: Mr. Childers is the witness for –

THE WITNESS: Smith.

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. That the principal trade, business or occupation of the companies we listed are different

Page 140

than that for Covil?

MR. RHENEY: Object to the form.

THE WITNESS: They are. They are.

BY MS. DEAN:

Q. As it relates, at least for this case, to the work location for McGuire, Duke McGuire, have you investigated, at all, the claim of Mr. Waters that materials were taken out of their original boxes and put into different boxes when work was done at that facility?

MR. RHENEY: Object to the form, argumentative, pitting witnesses.

THE WITNESS: I have no way to follow up on that investigation, but I would think it never happened.

BY MS. DEAN:

Q. Is there any reason to believe that, outside of the fact that that would be terrible?

MR. RHENEY: I'm sorry. What is the question?

BY MS. DEAN:

Q. That that would be terrible.

MR. RHENEY: Object to the form, argumentative.

BY MS. DEAN:

Page 141

Q. "That" being taking an asbestos product and putting it in an asbestos-free box?

MR. RHENEY: Object to the form, lack of foundation.

THE WITNESS: It depends on when it – it depends on what, you know, the situation was. And I wasn't there, so I can't say.

BY MS. DEAN:

Q. And because we have two witnesses in these cases that are coming up that worked with McGuire, I'm just wondering if there is any individual or documents that you have seen that indicate that Mr. Waters' memory – that Mr. Waters is wrong, or if it's just something you don't know one way or another?

MR. RHENEY: Object to the form of the question, speculation.

THE WITNESS: What is the last part of your question?

BY MS. DEAN:

Q. Or if it's just something you don't know one way or the other? Do you want me to ask the whole question?

A. If you would, please.

MS. DEAN: And the same objection can

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 142

stand.
BY MS. DEAN:
Q. I'm wondering if this is something that you have investigated, where you can tell me more about it, or if it's something Covil just doesn't know one way or the other.
A. I have not investigated.
Q. I want to talk about the different locations; more specifically, starting off with DuPont. One of the things that Palmer Covil, the former president's testimony, told us is DuPont was one of the big locations where Covil did work. Do you recall that?
A. Yes.
Q. Have you seen, yourself, evidence of that in the exhibits that you reviewed, that there was repeated times that they were doing work at DuPont?
A. Yes.
Q. Is there a single year – and I want to isolate kind of the 1955 to 1980 time frame where Covil, to your knowledge, wasn't working at the various DuPont plantses. Plants, not plantses. Let me start all over.
A. Okay.

Page 143

Q. Is there a year, that you're aware of, for DuPont, which was a big place of work for Covil where they didn't do work between the 1955 to 1980 time frame in the various plants?
MR. RHENEY: Object to form.
THE WITNESS: I would have no knowledge of that.
(Plaintiff's Exhibit No. 13, 7-31-74 Tax Exempt Jobs, was marked)
BY MS. DEAN:
Q. I want to hand you what I have marked as Exhibit 13. In talking, I know you only were able to – start over.
In reaching out to two people, one that was able to give you information, did you ask specifically about the nature and extent of Covil's work at DuPont?
A. I don't recall that. Are you talking about with Charles McWhorter?
Q. Yes.
A. I don't recall discussing that with him.
Q. I hand you what I have marked as Exhibit 13. This is dated July 31st, 1974, and it's titled "Tax Exempt Jobs." And it lists out a number on one side and then the name or location on the other side.
Do you see that?
A. Yes.
Q. Are you familiar with the origins of this document at all?
A. No, I'm not.
Q. Do you have any knowledge, as you sit here today, what that number means? Sometimes they just report all of the jobs, but sometimes they give a number or a series of numbers. And I'm just wondering if you know that number – if that's a job number or what else it might be?
A. I have no idea.
Q. I take from that that it's fair to say, at this point, you haven't made any effort to figure that out?
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. I want to quickly go through some of the things here. It indicates that for all of the jobs at Allen Plant Jobs, which is the fourth, that they are listed as "All" in terms of tax exempt jobs.
Do you see that?
A. Yes.

Page 144

Page 145

Q. And, again, the date of this – or the time frame of this is July 31st, 1974?
A. Yes.
Q. Any evidence at all that work wasn't done at Allen Plant in prior years, or do you know?
A. I have no clue.
Q. The next thing it indicates is that all of the jobs for American Enka – I will put it this way.
I'm sorry. Let me start over. It lists American Enka Jobs, and it indicates "All" in terms of the tax exempt jobs.
Do you see that?
A. Yes.
Q. Do you have any idea what it means to be tax exempt?
A. That they would not pay any taxes for material they bought, I would think.
Q. That's just – the logic behind that is new to me, just because this isn't my industry, but, I mean, were there certain materials you could supply and not have sales tax associated with it? Is that what it's –
A. I'm not sure. I have no idea.
Q. It also references – is it Belews,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 146

B-E-L-E-W-S?
A. Belews.
Q. Belews?
A. Uh-huh.
Q. Thank you. That the Belews Creek Jobs, all of those in July 31st, 1974, are listed.
Do you see that?
A. Yes.
Q. And then it lists "Stillwater Carolina" and gives a specific number there.
Do you see that?
A. I do.
Q. Further down it has both "Daniel Construction Jobs," plural, and "Dan River Jobs," plural, and lists "All" next to both of those. Right?
A. Right.
Q. For all of these that I have just listed on just the first page, have you – have you done any kind of effort or research of any kind to figure out the extent of the job, the nature of the job, whether it was just supplying insulating materials or contract work? Can you give me any further detail?
A. No, I have not.

Page 147

Q. I'm going to just go down the list. And I have highlighted the ones that I think are relevant, so I'm going to do them in the order that they come up. But they are not consecutive.
Do you see that it has "Duke Power" listed for "All" jobs, "Fiber Industry" for "All" jobs, "General Electric" for "All"?
A. Yes.
Q. "Hoechst Fibers," and then it lists a job, "Lee Steam Station Jobs," and says "All"?
A. Yes.
Q. And then "Milliken Jobs" and then lists out "All"?
A. Yes.
Q. And Milliken and Lee Steam stations, along with others, are Duke jobs. Are you aware of that?
A. Yes.
Q. And the next case has – sorry. The next page has "South Carolina Electric & Gas" and lists out four different jobs?
A. Uh-huh. Yes.
Q. And then there is also "Westinghouse Jobs" where it indicates "All" of them. Right?
A. Yes.

Page 148

Q. Are you familiar with the name Mundet?
A. Mundet?
Q. Yes.
A. No.
Q. Are you familiar with Crown Cork & Seal?
A. No. I've researched that one, and we found no information on that.
Q. In terms of –
MS. DEAN: Well, it's almost 12:30. I was about to go into a different location. Do you want to stop for lunch or should I plow ahead?
MR. RHENEY: Whatever your preference is. If it's here, I guess we should probably stop.
MR. TATE: I haven't heard it's here yet.
MS. DEAN: So keep working?
MR. TATE: Maybe a few more minutes. If you would prefer to take a break, I can check to see –
MS. DEAN: I was about to get into Duke, which is not a small chunk, so I think I'm going to forego my order and just go to another subject for a second.
BY MS. DEAN:
Q. For any of the locations listed in

Page 149

Exhibit 1 through 3, which gives a list for each thing, does Covil have any knowledge about the level of sophistication each of those companies had about asbestos, specifically, and the health hazards associated with asbestos?
MR. RHENEY: Object to the form.
THE WITNESS: Not to my knowledge.
BY MS. DEAN:
Q. Is Covil in a position to say that anything that Mr. Childers or Mr. Howe or Mr. Sizemore did was unreasonable in their estimation, given what they know about insulating work?
MR. RHENEY: Object to the form, calls for speculation.
THE WITNESS: I can't speculate for them, because I don't know how much knowledge they have pertaining to it.
BY MS. DEAN:
Q. And here is what I'm looking for. If you intend to come to trial and say "Look" – and this is just by way of example – "Calvin Sizemore indicated that he did this and that, and we believe that's unreasonable, that's not the way you should do the work," I don't want to be surprised by that,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 150

and so let me start off with Mr. Sizemore.
Is there anything about how he did his work that Covil intends to say was unreasonable?
A. I don't know.
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:
Q. Okay. Did you read Mr. Sizemore's deposition?
A. Yes.
Q. I think I didn't ask you about him. And if I did that, I apologize. But is there anything about his description of his work that Covil intends to indicate they disagree with, for whatever reason?
MR. RHENEY: Object to the form.
THE WITNESS: I didn't see anything.
BY MS. DEAN:
Q. All right. Similar question for Wayne Howe. Is there anything about how he conducted himself, based on what Covil knows to date, that they intend to say was unreasonable?
MR. RHENEY: Object to the form.
THE WITNESS: I can't speculate one way or the other, because he – you know, a lot of it is different. His – where he worked and where the

Page 151

others worked were different locations and different things, different places. So I can't say one way or the other.
BY MS. DEAN:
Q. Okay. Same question for Mr. Childers.
A. Same answer.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. There are specific references in some of the documents to doing work at, let's say, a Duke facility, but on a specific piece of equipment. I think the one we looked at together was a Westinghouse turbine. Do you remember that?
A. Yes.
Q. Whether it be Westinghouse or General Electric or Ingersoll Rand, boiler feed pumps or any other particular equipment where Covil was coming in to do insulating work on that equipment at a third party's facility, does Covil have any information about what the manufacturer of the equipment's knowledge was about the dangers of asbestos?
A. I wouldn't know that.
Q. Okay. Are you aware of any information provided to you – and let me give Westinghouse as a initial example – provided by Westinghouse, to

Page 152

Covil, about the dangers associated with either building, insulating, repairing or working around that equipment?
MR. RHENEY: Object to the form.
MR. RAINSFORD: Object to the form.
THE WITNESS: Could you repeat that?
BY MS. DEAN:
Q. Sure. Are you aware of any information, provided by Westinghouse to Covil, about the dangers associated with insulating, maintaining or working around their turbines?
A. Not that I'm aware of.
Q. Same with GE. Are you aware of them ever providing any information to Covil, in the occasions where Covil was working with GE equipment, with the dangers associated with insulating, repairing or working around a GE turbine?
A. I wouldn't know that.
Q. Okay. Is that answer going to be the same if I insert any particular manufacturer or piece of equipment, whether it's a boiler or a turbine?
A. Probably, because I have no knowledge of that and have not seen any documents on it.
Q. Broadly speaking, in your review of the

Page 153

files did you see any records of manufacturers who used asbestos ever passing on danger information about asbestos to Covil, before Covil went in and did insulation work?
A. No.
Q. Similar question. When you were hired by a principal contractor – we saw, for instance, that was Duke or Daniel in that one example we looked at together. Do you remember that?
A. Yes.
Q. Do you see any record anywhere, from the records that you have of that contractor, Daniel, for instance, providing information to Covil, as the sub, about the dangers specifically associated with insulation work they were contracting you to do?
A. I have no knowledge of that.
Q. Finally, as it relates to the actual premises where you were going, "you" – again, I mean by Covil, whether it be going to Bowater or Duke or DuPont or any of these – that list is longer, but did you see any indication or evidence that before you were going onto their premises, they made Covil aware of the dangers of the asbestos products that were on their premises before Covil came in to do work?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 154

A. I never saw anything related to that.
Q. In other words, to give a concrete example, you know, if you came into Bowater in 1986 to do work, did you see any indication that anybody at Bowater made Covil aware about the locations of and dangers associated with the insulation they still had in their plant when the Covil guys are going in to do that work?
A. Not that I'm aware of.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. You mentioned the word "encapsulated" a minute ago, and so I want to spend a few minutes understanding what Covil, as a company, understood about the hazards of asbestos. First of all, are you aware of anyone whose job it was to ascertain when and how insulation work created hazards?
MR. RHENEY: Object to the form.
THE WITNESS: The only thing I remember about that is what was in my dad's deposition and what he said about that.
BY MS. DEAN:
Q. Have you seen – and "you" as Covil – any dust-release study about how many millions or trillions of fibers are put into the air when you

Page 155

work with block versus cloth versus a sealant?
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. You had suggested that cloth was OSHA approved, had no dust and was encapsulated. Did I remember that?
A. Yes.
Q. Okay. When you indicated that Covil believed that there was no dust, first of all, what made you believe that?
A. It was in my dad's deposition. He stated it.
Q. Okay. Any other reason?
A. No.
Q. Is Covil aware, and I mean even until today, that you can have millions of fibers of asbestos in the air when working with something and not be able to see it? In other words, there is not a visible dust that you can see, absent special lighting, despite the fact that there is a lot of dust in the air?
MR. RHENEY: Object to the form.
THE WITNESS: That's true with anything.
BY MS. DEAN:

Page 156

Q. Were they aware of that, specifically with asbestos, though, that you could see no dust and still have millions of fiber in the breathing zone of the worker?
A. I don't know. I never worked around it.
Q. When Covil, through you, suggested that asbestos cloth was an encapsulated product with no dust, or through your father when he said it, do you know if they actually investigated that based on the literature that was out there?
A. I don't know.
Q. Does Covil agree that before you represent something is dust-free when you're talking about a carcinogen as the actual specific dust, they should at least investigate that before saying it?
MR. RHENEY: Object to the form, argumentative.
THE WITNESS: They could have done a lot of things, I'm sure, different, but I have no knowledge of that, whether it was checked or tested or anything.
BY MS. DEAN:
Q. Just what?
A. Whether it was checked or tested or anything.

Page 157

Q. Okay. In terms of Covil's understanding of asbestos during the time frames when they were using it or even in later years when they were dealing with workers' comp and lawsuits that were involved with it, was an investigation done to understand concretely, or more concretely, the hazards associated with asbestos?
A. Not to my knowledge.
Q. Does Covil dispute the findings of OSHA about the dangers associated to asbestos, to your knowledge?
MR. RHENEY: Object to the form, overly broad, speculative.
THE WITNESS: I can't say one way or the other, because I don't know anything about what OSHA says and what they don't say, what we did and what we didn't do.
BY MS. DEAN:
Q. And I think we pronounce OSHA and OSHA differently, but you know what I'm talking about?
A. Same thing.
Q. Okay. Fair enough. That's ingrained in me, so it would be hard for me to tweak it.
Has anybody, that you're aware of, ever consulted with an expert, a medical doctor, an

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 158

occupational health person, an industrial hygienist, in order to better understand the hazards of asbestos during the decades when they were working with and around it?

MR. RHENEY: Object to the form.

THE WITNESS: The only thing I can state is what my dad said in his deposition about listening to – at a meeting, listening to Dr. Selikoff. That's the only information I have.

BY MS. DEAN:

Q. Does Covil dispute that asbestos exposures can result in lung cancer and mesothelioma – mesothelioma and asbestosis?

MR. RHENEY: Object to the form.

THE WITNESS: I'm not a doctor, so I can't say one way or the other.

BY MS. DEAN:

Q. When Covil was making decisions how to work with and around asbestos, did they understand that it was being reported that asbestos caused a variety of deadly diseases?

MR. RHENEY: Object to the form of the question.

THE WITNESS: My dad heard noise, you know, in the late '60s, mid-to-late '60s, and that's

Page 159

all I have to go by.

BY MS. DEAN:

Q. The International Agency for Research on Cancer produces information about when and how easily or how hard asbestos causes disease. Does Covil, to your knowledge, have any basis to dispute their findings?

MR. RHENEY: Object to the form – (cross-talking.)

THE WITNESS: I'm not familiar with that.

BY MS. DEAN:

Q. What about the Environmental Protection Agency's findings?

MR. RHENEY: Same objection.

THE WITNESS: I'm not familiar with it.

BY MS. DEAN:

Q. American Cancer Society?

MR. RHENEY: Same objection.

THE WITNESS: I'm not familiar with it.

BY MS. DEAN:

Q. There is a variety of organizations, including each one I have listed so far, that have indicated that asbestos exposure results in harm, not just to the person using it, but to people

Page 160

working around it, and also to family members from laundering the clothes of the workers. First of all, were you aware of that?

MR. RHENEY: Object to the form, argumentative.

THE WITNESS: Was I aware of what?

BY MS. DEAN:

Q. That the harm presents itself not just to the user, but to bystanders and to the people laundering the clothes of the user?

MR. RHENEY: Object to the form.

THE WITNESS: Only when I read my dad's deposition did I realize anything about it.

BY MS. DEAN:

Q. Okay. So in the years that you worked for the company, that wasn't knowledge you had. You obtained it in preparing for this role?

A. Yes.

Q. Does Covil have any basis to dispute that, meaning that asbestos can cause harm not just to the user, but to their family members?

MR. RHENEY: Object to the form.

THE WITNESS: Can you repeat that?

BY MS. DEAN:

Q. Does Covil have any basis, based on

Page 161

research that they have done, to dispute the findings your dad talked about, about how asbestos causes harm, not just to the users, but to the family members?

A. They have done no research, that I know of.

Q. Do you know in anybody at the company that did?

A. No.

Q. Okay. In terms of why asbestos is dangerous, was Covil ever aware that part of the problem was that the dimensions or aerodynamics of asbestos made it where it easily stayed in the air?

MR. RHENEY: Object to the form.

THE WITNESS: I don't know. I'm not familiar with it.

BY MS. DEAN:

Q. Okay. Is Covil, to your knowledge, aware of the concept of "latency"?

A. Latency?

Q. Yes.

A. I'm not familiar with it.

Q. Okay. To put it differently, one of the concepts associated with many diseases, but specifically asbestos diseases, is that you have an

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 162

exposure date and that there is a time frame before the onset of the actual disease. So with a cold, latency is usually a couple days, someone sneezes on you. With asbestos, it's decades.
A. Right.
Q. Do you know if anyone at Covil ever learned this principle, is the first question. And the second one is communicate it to anybody that was working around asbestos?
MR. RHENEY: Object to the form.
THE WITNESS: Not that I'm aware of.
BY MS. DEAN:
Q. Does Covil understand that if you have something that doesn't cause immediate harm and that it takes a long time before you see the harm, that that makes it even more important to educate workers of why you have to protect yourself, because you don't automatically have a response that tells you, you need to do it?
MR. RHENEY: Object to the form, calls for speculation.
THE WITNESS: That's a broad statement, so that could refer to anything.
BY MS. DEAN:
Q. And no matter what it is, that principle

Page 163

is true. If it's really, really important not to have something happen and the reason it's important doesn't immediately manifest itself, that's when education and training becomes the most important?
MR. RHENEY: Same objection. Argumentative, as well.
THE WITNESS: Could be, yes.
BY MS. DEAN:
Q. I intend, if needed, to rely largely on you and your memory of what your father decided to talk about what was known about the dangers of asbestos, if we ever have to talk about this in front of a jury. Can I ask you broadly, and I will have a few specifics that – follow-ups, but was there anything above and beyond what was in Palmer Covil's deposition about what the company knew, and when, that you were able to add to that?
A. No.
Q. Okay. I saw reference to –
MR. RHENEY: Can I interrupt? I apologize again. You said what the company knew, and when, about –
MS. DEAN: The dangers of asbestos.
MR. RHENEY: Thank you. Object to the form.

Page 164

MS. DEAN: And it was your guys' request. Don't make him regurgitate –
MR. RHENEY: Yeah. I wanted that definition. What he knew and when, about what, is what I was asking.
MS. DEAN: And because that deposition wasn't videotaped, if we are ever in front of a jury, it is my intent to go through a timeline. But I guess my question now is, if there is nothing to add, and this is largely for discovery purposes, I'm happy to forego that if you don't have anything to add. And my understanding is you don't.
THE WITNESS: Right.
MR. RHENEY: Understood. I was just asking, when you said what and when, specifically what, and when were you talking about it.
MS. DEAN: Got it. Got it.
MR. RHENEY: That's all.
MS. DEAN: That makes sense. Sorry.
(Plaintiff's Exhibit No. 7, OSHA Rules and Regulations, was marked)
BY MS. DEAN:
Q. I want to hand you the actual OSHA regulations and probably leave this with you at lunch. I have marked them as Exhibit 7. And I know

Page 165

your father references being aware of this and, in fact, ordering the Federal Register himself, but have you personally seen this before I handed it to you?
A. No, not the pages, I haven't. I did see the Registers in his office, but I never went through them. But I did see the books.
Q. So you saw the books on the shelves?
A. Right. But I have never seen this paperwork.
Q. You can see, in the very beginning, under "Title 29, Occupational Safety and Health Standards for Exposure to Asbestos Dust," that on December 7th, 1971, an emergency temporary standard concerning exposure to asbestos was published in the Federal Register.
Do you see that?
A. Yes.
Q. Okay. One of the questions that I intend to ask you, after you have time to review this, is do you agree with me that nowhere in the entire regulation does it say that asbestos cloth is approved by OSHA?
MR. RHENEY: Object to the form.
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 166

Q. And so I don't – it has got three columns per page and then there's multiple pages, but that's going to be something I do want to come back to.

Before we do that, do you see, on the third column of the first page where it says: "In the view," what paragraph I'm on?

MR. RHENEY: Which paragraph?

THE WITNESS: Which paragraph?

MS. DEAN: It's the second full paragraph. "In the view of the undisputed grave."

MR. RHENEY: The third column on the first page?

MS. DEAN: Yes. It's right here, if you're a visual.

THE WITNESS: I don't see it.

MR. RHENEY: I don't know if we've got the same thing you do.

MS. DEAN: Can I see?

The first two pages are not on yours. But they are on mine, so they are now on yours.

Off the record for one second.

(Off-the-record discussion)

BY MS. DEAN:

Q. I just handed you a complete copy of

Page 167

Exhibit 7. I apologize. It looked like the first two pages came off. But now, on the first page in the third column, there is a paragraph that I've highlighted.

Do you see where I'm at?

A. Yes.

Q. Okay. One of the things that OSHA reports is that: "In view of the undisputed grave consequences of exposure to asbestos fibers, it's essential that exposures be regulated now."

Do you see where I'm at?

A. Yes.

Q. And that paragraph ends that the "Lives of employees are at stake."

Do you see that?

A. Yes.

Q. And when it goes through the actual Rules and Regulations, it starts off two pages later by defining asbestos, providing exposure levels, and then it has a bunch of sub categories. Let me know when you get there.

A. Okay.

Q. They have, for instance, in the middle of the second column, "Work practices" such as "wet methods"?

Page 168

A. Uh-huh.

Q. They have, in the next column, having air purified respirators?

A. Uh-huh.

Q. On the next page it talks about having special clothing, changing rooms, clothe lockers and laundering.

Do you see all that?

A. Uh-huh. I do.

Q. And it's not just that this 1971 Federal Regulations for employee was known to the company. You have seen, with your own eyes, your dad had that sitting on his desk. Right?

MR. RHENEY: Object to the form, argumentative.

THE WITNESS: He had the books, is all I can testify to.

BY MS. DEAN:

Q. And there is an entire section that talks about different things that deal with lockers and clothing and laundering rooms to isolate the asbestos-contaminated clothing from other people so it doesn't get brought into the home.

Do you see where I'm talking about?

A. Not really.

Page 169

Q. If you look down, for instance, the first column on the page of the Federal Register that says 11321, it talks about "Special clothing" that the employer shall provide, and require the use of, special clothing such as coveralls –

A. Yeah, I see that.

Q. – full-body clothing?

A. Uh-huh.

Q. And the next category is "Change rooms"?

A. Yes.

Q. And then "Lockers." And the lockers are to make sure you don't bring the contaminated clothes of the employee home.

And then they have "Laundering" so you don't bring the asbestos-contaminated clothing home. Are you following?

A. Yes, I am.

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. And my understanding is that the idea of having change rooms or special laundry or, I don't know, concrete actions to make sure that Covil's workers, after they go into a plant that had asbestos in it, didn't bring that home to their family members is not something you could find

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 170

documented that that ever happened.
MR. RHENEY: Object to the form.
THE WITNESS: I never saw anything.
BY MS. DEAN:
Q. One of the things your dad indicated – actually, I'm sorry. Let me backtrack for a minute.
For any particular asbestos product that was ever sold by Covil historically, do you know if Covil either conducted a study themselves or paid someone else to conduct a study to figure out how much asbestos was released in the air, whether it was block or pipe covering or seals or cloth or anything else?
MR. RHENEY: Object to the form.
THE WITNESS: I wasn't there, so I can't answer that.
BY MS. DEAN:
Q. And in your review of the documents, did you see anything like that?
A. No.
Q. I'm sorry. I missed your answer.
A. Not that I recall.
Q. Okay. Similarly, do you know if anyone at Covil ever asked or personally did, either way, research of what other people paid to have done, and

Page 171

in terms of test results about any of the products Covil used or sold, to see what was being reported?
MR. RHENEY: Object to the form.
THE WITNESS: Well, that's kind of a broad statement, so I don't know. Do you have a specific question about one of those items or one thing?
BY MS. DEAN:
Q. If you haven't seen it for any, I was trying to save time, but I can take – I can break them down. So for insulation materials, like – let's start with pipe covering. Do you know if anybody looked at or paid someone else to look at, hey, what research did other people pay for that could help us understand what exposure levels exist?
A. I'm not aware of it.
Q. Would that be any different if we talked about block?
A. No.
Q. Mud?
A. No.
Q. Cloth?
A. No.
Q. Any other asbestos component that you guys sold?

Page 172

A. Not that I can think of.
Q. Okay. One of the things that I know, from looking at Palmer Covil's deposition as the past president, is that he does remember going to Selikoff's talk. Do you remember that?
A. Right. Uh-huh.
Q. Selikoff is S-E-L-I-K-O-F-F.
His big conference from 1965 was created into a book. Did you know that, or have you ever seen that?
A. No, I didn't know that.
Q. Is Covil aware that out of all of the different hundreds of asbestos products used, insulating materials was kind of identified as the first to study as a group to figure out how many people were getting sick and when and where?
MR. RHENEY: Object to the form.
THE WITNESS: Covil wasn't aware of that. I'm not aware of it.
BY MS. DEAN:
Q. One of Selikoff's earliest findings were that 10 percent of asbestos insulating workers that were part of that asbestos union were getting asbestos disease in one out of every ten people. Do you expect, given Mr. Palmer – his prior testimony

Page 173

as the prior president, that he stayed abreast of what was going on, that that was something known to him or at least available to him?
MR. RHENEY: Object to the form, speculation.
THE WITNESS: It was available. And I believe he did state that he was on top of it.
BY MS. DEAN:
Q. Any communications to the non-officer-level people, the people that were on the ground, about that information that you could find?
A. That I could find now?
Q. Yeah.
A. No.
(Plaintiff's Exhibit No. 14, Occupational and Nonoccupational Exposures to Asbestos Article by W.C. Hueper, was marked)
BY MS. DEAN:
Q. I want to hand you what I have marked as Exhibit 14, which is just one of the articles in this book by a gentleman by the name of Dr. Hueper from the National Cancer Institute. And then I think after this, food or no, we will take a break.
And just for your own benefit, I'm going

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 174

to just hand you the book so that you can just see that this was part of that conference.

Do you see that, my poor, battered book?

I have provided a copy of "Section IV, Human Exposure to Asbestos: Community Studies, Occupational and Nonoccupational Exposures to Asbestos" by Hueper?

A. Yes.

Q. Okay. The first paragraph, I just want to read and first confirm that I have just read it correctly. It says – and if you look at the first page of the book, we're talking about 1965, that: "Numerous reports by many investigators from various countries establish the fact that an occupational or nonoccupational inhalation of dust of different chemicals and physical types of asbestos results in the development of asbestosis of the lungs which, depending on the type of exposure, may be designated as an occupational, neighborhood or household pneumoconiosis. Since 1935 an increasing amount of epidemiologic, clinical and pathologic evidence, moreover, incriminates this health hazard is one of the environmental sources of cancer of the lung."

Do you see that?

A. Yes.

Page 175

Q. And, first of all, just in terms of the diseases that are referenced in this first paragraph and referenced by name, both asbestosis and cancers of the lung. Right?

A. Right.

Q. But they also, in the get-go, I mean, from the very first paragraph, indicate that the concerns are not just limited to occupational, but include household exposures.

Do you see that?

A. I do.

Q. And, finally, in the very first paragraph it indicates that this information has been developing, but all the way back from 1935.

Do you see that?

A. Yes.

Q. If you turn a few pages, there is a subsection on page 187 called: "Occupational Activities, Processes and Products with Asbestos Hazards."

Do you see that?

A. I do.

Q. And it references the same two diseases, asbestosis and asbestos cancer hazards. And it says that asbestos – asbestosis and asbestos cancer

Page 176

hazards relate to an inhalation exposure to asbestos, not only for asbestos workers properly engaged in the direct and regular production, processing, handling or using of asbestos-containing materials, but also for the large number of individuals who may sustain such contacts on an incidental basis.

Do you see that?

A. I do.

Q. And you know, from the former president's testimony, that there were insulators who were in the direct and regular job of handling and using asbestos insulation materials in earlier years. Right?

MR. RHENEY: Object to the form.

THE WITNESS: There was.

BY MS. DEAN:

Q. And what this is reporting is that the concerns, specifically asbestosis and asbestos cancer concerns, weren't just limited to them but to people who have contact more incidentally. Do you agree?

MR. RHENEY: Object to the form.

THE WITNESS: That's what it says.

BY MS. DEAN:

Page 177

Q. The next paragraph has a table that lists out groups of people in operations and processes where – well, Table 2 says "Asbestosis," and it has a subsection called: "Operations and products with contact to asbestos for producers, processors, users, consumers and residents." And then it also, below that, has "Occupational groups" and "Nonoccupational groups." Right?

A. Yes.

Q. And we can look at this with the jury together later, if we need to, but even if we just go to the "Nonoccupational groups," it talks about just being an inhabitant of a house with asbestos insulation in there. Right?

MR. RHENEY: Object to the form.

THE WITNESS: It does.

BY MS. DEAN:

Q. And then the next page has an entire subsection for: "Asbestos Cement Products and Consumption."

Do you see where I'm at?

A. Yes.

Q. It says: The greatest quantity of asbestos of all grades is used in the manufacture of a variety of asbestos cement and plaster products,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 178

such as asbestos cement proper, which may be applied like ordinary mortar or plastic (sic) or which may be sprayed on walls; insulating materials for the covering of pipes, boilers, cables, conduits and ducts. And then it goes on.

Do you see that?

A. I do.

Q. And that paragraph ends by saying – well, first of all, you can see, throughout the paragraph, as they are talking about it, they have repeated citations where for they've studied this and are referencing the results of their study. They are footnoted as 23 or 21a or 40.

Do you see where I'm talking?

A. I do.

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. And the paragraph concludes that the circumstances under which asbestos cement products are used in the human economy makes it likely that they may create asbestos health hazards of an associated type for other workers, as well as in homes where asbestos insulation was used. And that's kind of echoing what we saw in the chart just a second ago.

Page 179

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. Do you see that?

A. I see it.

Q. Okay. In terms of what actual knowledge exists to Covil, and specifically to Covil's president all the way back in the '60s, not just asbestos generally, but insulating products to people working with it, along with their households were identified to create health hazards both in the form of cancer and asbestosis. Would you agree?

MR. RHENEY: Object to the form.

THE WITNESS: I don't know exactly what he took away from his – when he heard Dr. Selikoff's speech because I wasn't there, so I don't know.

BY MS. DEAN:

Q. Certainly, it was available. We can see that from looking at the record.

A. Right.

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. I missed your answer.

A. What was the question?

Q. Did you say "right"?

Page 180

A. I was just agreeing with you.

Q. Okay. I like agreement.

MS. DEAN: Okay. We have been going about an hour and a half, so let's take a little break.

THE VIDEOGRAPHER: This is the end of Media Unit Two. We are off the record at 1300 hours and thirty seconds.

(Break In Proceedings)

THE VIDEOGRAPHER: This is the beginning of Media Unit Three. We are back on the record at 1300 hours, 56 minutes.

BY MS. DEAN:

Q. Over the lunch break I was provided the personal record for the Lewis Childers from Covil. And the only real question I had about this is, does Covil have a feel for how complete these records are?

MR. RHENEY: Object to the form.

THE WITNESS: I'm not sure. Some of them are more fuller than others. I don't know what's left out of all of them, but some of them are thicker than others. I guess it depends on how long they've been there, whatever. He hasn't been there very long.

Page 181

BY MS. DEAN:

Q. And that's what I'm trying to gather, whether there was a retention policy so that Covil feels confident that they would have a full record, at least after 1973, or was it just kept indiscriminately based on the judgment of whoever was in office at the time, or do you know?

A. I don't know. I do know they have a lot of personnel records here. I don't know how many was burned up in the fire.

Q. So if I have a guy, though, that says, "I worked here in 1981 and I know I did," and you don't have a record of that, is it Covil's position that "If we don't have a record it probably didn't happen," or is it "We just don't know" –

MR. RHENEY: Object to the form.

BY MS. DEAN:

Q. – we can't confirm or deny your memory?

A. No. I don't know.

Q. You don't know –

A. One or the other.

Q. Okay. As you're sitting here now, though, you can't give any sense for how complete these records are?

A. No.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 182

Q. And I was provided Mr. Childers' – I know we're working to find some other folks either – would the answer be the same for each person?
A. Most likely, yes.
Q. Okay. As promised, I wanted to come back to the question about OSHA. Were you able to see anything in the Regulations – we marked these as Exhibit 7 – that indicated that asbestos cloth was approved by OSHA?
A. I didn't completely read it all the way through, so I can't answer that.
Q. Okay. In the portions that you have had an opportunity to read, did you see anything that suggested that?
A. No.
Q. The OSHA regulations indicate that there were threshold limits. And the prior president and Palmer Covil's deposition kind of referenced those. Are you aware of any efforts to determine whether particular work done by Covil's employees stayed within those limits to see whether they do a lot of the thing in the Regulations that are triggered if you go above those limits?
A. I'm not aware of any.

Page 183

(Plaintiff's Exhibit No. 45, From Little Violations, Major Accidents Grow Safety Presentation, was marked)
BY MS. DEAN:
Q. Okay. I want to hand you what we have marked as Exhibit 45. And it was produced to me by Covil. It says: "From Little Violations, Major Accidents Grow." And it appears to be some kind of safety presentation about accident prevention. Do you recall seeing this before?
A. I don't think I have.
Q. It's a longer document than most that we have looked at. In my review of the document, there are references to dates when the presenter is giving examples, but I can't find a date for when this was generated. Do you know?
A. I do not know.
Q. Huh?
A. I do not know.
Q. Okay. Sorry. Do you know who would have created this document?
A. I do not. Like I said, I have never seen it before.
Q. Much of the focus of the document – and if you want to take time to look at it – it is

Page 184

about safety prevention, wearing safety goggles, taking your time so that you don't get your necklace caught in the machine, things of that nature. I'm wondering if you know of any event that may have been the impetus for this occurring.
A. I do not. I don't know of any major or minor accidents that we had that were related to any of this.
Q. The second page has a Supervisor's Safety Creed. It says: "You must do your best to eliminate hazards before they create tragedy and misfortune."
Do you see that?
A. I do.
Q. And that basic principle is one that Covil agrees to?
MR. RHENEY: Object to the form.
THE WITNESS: I don't know how this was derived at and who had it and who didn't, so I can't answer to that.
BY MS. DEAN:
Q. Outside of where it came from, the principle that's being referenced, I'm wondering if Covil agrees with. But for a supervisor, they need to do their best to eliminate hazards before they

Page 185

create harm.
MR. RHENEY: Object to the form.
THE WITNESS: Every supervisor is different, so I can't answer that for them.
BY MS. DEAN:
Q. Is there any supervisor who wouldn't have the analysis that you should eliminate hazards before you hurt people?
MR. RHENEY: Object to the form.
THE WITNESS: I don't know.
BY MS. DEAN:
Q. It goes on to say, in that same page, "To be informed of all hazards" – I'm looking at the fourth paragraph – "you must believe your men deserve to work in a safe environment, to encourage work safety, and to be informed of all hazards."
Do you see that?
A. I do.
Q. And those are basic principles not only written down in this Covil record, but that Covil believed in.
MR. RHENEY: Object to the form.
THE WITNESS: They may or may not. There, again, I can't answer.
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 186

Q. The next page talks about attitude and rationalization. And it says that there was a questionnaire put into the National Safety Council about preventing accidents.
Do you see where I am?
A. I do.
Q. First of all, do you know, outside of this reference in the Covil document to the National Safety Council, whether either Palmer Covil or others in the company were involved with the National Safety Council?
A. Not to my knowledge.
Q. Is Covil aware of how much information, in going back how far this organization put out information about the dangers of asbestos?
A. I don't know. I have never seen any.
Q. Do you know when Covil first got computers?
A. Not right off the top of my head. I'm trying to think.
Q. Were they there when you started in '74?
A. No. I would say late '70s maybe.
Q. Okay. And the reason I thought about that right now is if you look on that same page, you can see in the paragraph "What grisly thoughts,"

Page 187

exclamation mark.
Do you see that? I'm on 2765.
A. Yeah, I see that now.
Q. In that paragraph, in that same sentence you can see that this is a typewriter. Right? You can see the error in the word "being" and how they corrected it?
A. Uh-huh. Yes.
Q. Okay. I'm just trying to get some context of when this thing was written.
The few pages – they have handwritten page numbers in the top, so I'm on page 5. They have "Safety In A Changing World" as the heading.
Do you see that?
A. I do.
Q. And one of the things written in this Covil document is: "We must strive to gain knowledge in the science of safety and apply our safety knowledge to everything we do." I'm at the last sentence of the fourth paragraph.
Do you see that?
A. I do.
Q. Is that something that Covil not only wrote here but believed was reasonable to expect of the company?

Page 188

MR. RHENEY: Object to the form.
THE WITNESS: I don't know. I can't speak for what they think.
BY MS. DEAN:
Q. Later in that same document, it's the second-to-last paragraph on that page, it writes that: Our attitude toward safety must continue to change. By this I emphasize that we must continue to work at the improvement of our knowledge with respect to safety and that we must be deeply mindful that technology advance calls for increasing effort and ingenuity in providing safeguards.
Do you see that?
A. I do.
Q. And this idea that the company needs to continue to change as technology changes, in order to make sure safety is improved, is something that is reasonable for Covil's customers and employees to expect of the company. Would you agree?
MR. RHENEY: Object to the form. I'm sorry. I didn't mean to interrupt. Object to the form, speculation.
THE WITNESS: I don't think this would actually be something that Covil wrote. I believe they might have copied it from somewhere. That's

Page 189

just my thinking.
BY MS. DEAN:
Q. Okay. Let me adjust the question. Because you're saying maybe we got this from somebody else and distributed it, as opposed to writing it ourselves.
A. Possibly.
Q. Okay. Whether Covil wrote it or got it from someone else, this is a document we have from the Covil files. And we know that from the Bates number at the bottom. Right?
A. Right.
Q. And one of the things that are in their records is this idea that you need to have an attitude towards safety that means that you continue to improve on safety, especially as technology changes. And I guess my question in that is just whether Covil believes that it is their expectation, for its customers and employees to have of it.
MR. RHENEY: Object to the form –
THE WITNESS: They did have a good attitude towards safety.
MR. RHENEY: – speculation.
BY MS. DEAN:
Q. And whether they did or didn't, my

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 190

question is more just whether that's fair for Covil's employees and customers to expect it to happen.
MR. RHENEY: Object to the form, calls for speculation.
THE WITNESS: I cannot say, one way or the other, what they were thinking during at that time.
BY MS. DEAN:
Q. Well, as the representative of the company, you're put in the position to answer questions, even in time frames when you aren't there. And I understand that's kind of a tricky analysis, but the base idea that these claims that they make in this record, in their file about prioritizing safety and advancing in safety, I'm just wondering if Covil believes those are fair things to expect of it.
MR. RHENEY: Object to the form.
THE WITNESS: Covil was very dominant in the safety field, as far as making sure their employees were safe in the plant and on the job site.
MS. DEAN: And let me object to speculation and nonresponsive and kind of step back

Page 191

from that.
BY MS. DEAN:
Q. Whether they were or not, we will talk about in another area. I'm just wondering if the expectation that safety be important and that you progress with technology to have better safeguards is something that's fair to expect of Covil from their customers and from their employees.
MR. RHENEY: Object to the form, speculation.
THE WITNESS: Covil was – safety was very important to Covil.
BY MS. DEAN:
Q. And because it was important to Covil, they certainly would not be surprised if they would expect it to be important to their customers and their employees?
MR. RHENEY: Object to the form, calls for speculation.
THE WITNESS: True.
BY MS. DEAN:
Q. The next page has "Safety In A Changing World." It says, in the second paragraph – I'm looking at the last two sentences: "I think we must recognize that safety rules and regulations aimed at

Page 192

protecting the worker have come about, to a considerable extent, from demonstrated need. It has come about partly because of our own failing to work safely without regulations."
First of all, do you see where I'm at?
A. No.
Q. Okay. It's page 6, on the physical page.
A. Oh, 6. Okay.
Q. And then it's the second paragraph, about halfway down.
A. Okay.
Q. I'm just going to start it again. It reads that: "I think we must recognize that safety rules and regulations aimed at protecting the worker have come about, to a considerable extent, from demonstrated need. It has come about partly because of our own failing to work safely without regulation."
Do you see where I'm at?
A. I do.
Q. Does Covil have any basis to dispute what's written in this document in their file?
MR. RHENEY: Object to the form, speculation, overly broad.

Page 193

THE WITNESS: I don't know. I can't answer that.
BY MS. DEAN:
Q. Okay. At least, based on what you do know from your investigation, there is no basis to dispute that?
MR. RHENEY: Object to the form.
THE WITNESS: I don't know. I can't answer that.
BY MS. DEAN:
Q. Page 15 is labeled: "Our Stake In Safety." In the third paragraph it says: "It is obvious that we have a physical, financial and moral stake in avoiding injuries. It is obvious, too, that we must make safety a part of our daily lives, on and off the job, if we are to prevent accidents."
Do you see that?
A. I do see it.
Q. And from a business perspective, Covil, who operated as an insulating contracting business for many years, understands and agrees that if you're going to make something a policy or a process of a company, it does take repeated effort.
MR. RHENEY: Object to the form.
THE WITNESS: I would agree with that.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 194

BY MS. DEAN:
Q. If you look to page 24 of the document, this is one of the places where I found a reference to a date. It references April 17, 1970.
Do you see that?
MR. RHENEY: I'm sorry. I see it.
MS. DEAN: It's kind of in the middle of the page, under "Guard Left Off: Workman Killed."
MR. RHENEY: Okay.
BY MS. DEAN:
Q. Just to try to piece together the best we can, knowing that this looks like it was on the typewriter, and this date, it looks like this is probably sometime in the '70s, although exactly when, you can't tell me. Is that fair?
MR. RHENEY: Object to the form, speculation.
THE WITNESS: I would say it's fair.
BY MS. DEAN:
Q. Do you know – and I suspect from your earlier answer the answer is no, but do you have any idea of who this was disseminated to?
A. Like I said, I've never seen it before. And some of the wording in here is not what I would have seen, accustomed – been accustomed to seeing

Page 195

in like any memos or anything, so that's why I said I think it was recopied. But I never saw the booklet, itself, or who it might have went out to.
Q. I will represent to you this gets into really specific detail about how to prevent certain types of injury, have your wife sign a contract that it's okay that you live without an arm because you don't want to use a guard. I mean, really specific detail. But there is nothing mentioned about asbestos for a group of insulating contractors. And I know you haven't independently verified, but assuming that what I'm telling you is true, any explanation for why you would have an almost 70-page safety document for Covil in the '70s that wouldn't have any safety information about asbestos for insulating contractors?
MR. RHENEY: Object to the form, lack of foundation.
THE WITNESS: I have no idea.
BY MS. DEAN:
Q. Okay. That was a longer document, but I think that's all we have on that. Do you mind telling me the exhibit number?
A. 45. Do you need it back?
Q. No. I just didn't have it marked.

Page 196

I noted that there was an effort, at a certain point in time, to have employees, upon being hired, x-rayed. Are you familiar with that?
A. I'm vaguely familiar with it. I didn't handle that, but I know what you're talking about.
Q. Do you know when it started?
A. No, I have no idea.
Q. Okay. I found a reference to this in Exhibit 40, which I'm going to hand you. This is dated August 1st, 1973.
A. Thank you.
(Plaintiff's Exhibit No. 40, Notice to Job Applicants, was marked)
BY MS. DEAN:
Q. The first question is do you know if, at any time before 1973, new applicants were being x-rayed?
A. No, I don't.
Q. Do you know if there was any effort to x-ray people, after they were hired, every year or every five years or anything like that?
A. I don't know when in South Carolina. I think, in North Carolina, they had to be x-rayed annually. But I don't know of any –
Q. You don't know what?

Page 197

A. I don't know of any after '73 for our guys at Covil.
Q. Okay. So outside of x-rays on new hire and x-rays in North Carolina, are you aware of any routine effort to have employees x-rayed at Covil at any time?
A. I don't know of any effort. And I saw where it had been done, but I wasn't – like I said, I wasn't involved in it, so –
Q. Do you know if employees were provided the results of their x-rays if anything was found?
A. I have no clue.
Q. Do you know why a decision was made to start x-raying folks when they were hired? I understand in North Carolina it's probably because there was a statute, but do you know why it was being done upon being hired?
A. No.
Q. Okay. I want to – starting with Wayne Howe's locations, I want to try to look at some records of work done by Covil at these locations. Starting with Bowater, did you see, in your review of the record, that – well, I think you told me, actually, before the lunch, that you saw that materials were sold but not contracting work. Did I

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 198

understand that right?
A. Invoices. Is that right?
Q. I'm kind of asking you. I thought you – I thought you said in Smith you saw contracting work, and in Howe you saw invoices or material supply?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Let me just ask you, what did you find? This is Howe. That's cleaner.
A. I'm not real sure. I did see some invoices, but I'm not sure exactly which case it was in.
Q. Is there anything that you can look at to refresh your memory so that I can know what you know?
A. Not that I have here with me.
Q. Okay. And this is not meant to be a memory test, but I need to find out what you know in some kind of menial fashion. Do you have any way to be able to answer my questions about specific locations? And I understand with three categories, this is harder than the average case. But if I want to go to a particular site and understand what you know or what you've referenced, do you have any way

Page 199

to be able to tell me what you have done?
A. I have notes on it. If you want to revisit it tomorrow, I can refresh my memory tonight.
Q. Let me pause for a minute and ask you – I mean, to me, as we go through 70 locations, doing that today, and on some of them, probably a dozen or two I found documents, but to have to re – go back through that list to see if he has anything that I don't seems remarkably inefficient. And 90 percent of why I'm here is to figure out if I can connect the dots on these. So does it make sense to do that?
MR. RHENEY: Well, let me – we're off the record?
MS. DEAN: We can if we want to.
MR. RHENEY: Oh, yeah. I didn't see any need to carry on a conversation with the tape rolling.
MS. DEAN: Okay. Let's go off.
THE VIDEOGRAPHER: Going off the record at 1400 hours, 20 minutes.
(Break In Proceedings)
THE VIDEOGRAPHER: At 1500 hours, 53 minutes and 30 seconds, we are back on the record.

Page 200

BY MS. DEAN:
Q. My understanding is that you wrote some notes and were to try to track what you could learn about the different locations where my clients worked –
A. Right.
Q. – since there are multiple locations. And you have those now?
A. Yes.
Q. Okay. The first location I want to ask you about is Bowater. Or if it is easier, if you can just tell me, for each location for Mr. Howe, what you were able to find. I can take notes, and we can go from there.
A. Where he worked at?
Q. Yeah.
A. That we worked at?
Q. Yes.
A. Okay. American Enka and Celanese Rock Hill, Bowater Rock Hill. And we couldn't find anything on Celanese Virginia, so that's iffy whether we were even there or not.
Q. And were you able to find anything about Crown Cork & Seal?
A. No. I know nothing about Crown Cork.

Page 201

Q. And I'm assuming just how you picked up that first document. Did you organize these separately by location – by plaintiff? In other words, do you have a Howe set, a Sizemore set?
A. Yes. Howe set aside the – was made up of the jobs that he worked on.
MS. DEAN: Okay. Can we go ahead and mark that as Exhibit 47?
MR. RHENEY: Wait. Which one is that? He has got several things there. You've got them broken down, Howe –
THE WITNESS: Yes. Right.
MR. RHENEY: Okay. Okay. Cool.
MS. DEAN: Do you mind handing me Howe and I'll put the –
THE WITNESS: Sure.
(Plaintiff's Exhibit No. 47, Memorandum, was marked)
BY MS. DEAN:
Q. So I see that these kind of have references to the depositions. Are the check marks where you found records as well? Is that –
A. We didn't find records. When I got this, Crown Cork was checked. However, we never found any records on them.
Q. Okay. So I see, in Exhibit 47,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 202

references to testimony. How did you go from there to be able to tell me: "We were at American Enka, Celanese Rock Hill, and Bowater"?
A. Based on part of his deposition.
Q. Okay.
A. At – we either – at some of these places, we were either insulation contractors or we supplied material to the contractor.
Q. Okay. For American Enka, which one of the two was it?
A. Asheville.
Q. Did they provide the actual materials or were they the contractor?
A. I'm not real sure.
Q. Do you know during what years they were in American Enka – Covil?
A. Yeah. He says – well, he says he was there '62 to '65.
Q. Right.
A. So I'm not real sure. And I don't have that on my other notes.
Q. How were you able to even confirm the baseline that Covil had a relationship with American Enka?
A. It was in our records, some of our

Page 203

records, and then it was in some of his deposition.
Q. Okay. What were you able to learn from your records?
A. That – just that we supplied material, but I'm not sure if we worked there, if we had, actually, insulators there.
Q. Okay. What materials were supplied?
A. He just said that he saw material being delivered in boxes, pipe cover material being delivered. But I have no idea whether it was fiberglass or calcium silicate. We found no records pertaining to that back in the '60s, because if they were, they were all burned up in the fire. So –
Q. So you have no basis to dispute what he testified to.
A. Right.
Q. Did you see that your father's testimony about the relationship with American Enka in his deposition?
A. I remember seeing it, but I don't recall what he said.
(Plaintiff's Exhibit No. 5, Volume 2 of Deposition Palmer Covil, was marked)
BY MS. DEAN:
Q. I'm going to hand you what I have marked

Page 204

as Exhibit 5, which is just volume 2 of that deposition, and direct to you page 142. And you can see there – I'm sorry. Give me one moment. I'm on the wrong page.
If you start on page 141, you can see a discussion between the lawyer about requested files about a variety of jobs, ten different jobs. And then Mr. Covil is asked: "Can you tell us what's on this list"?
And he starts listing off different things that are on the list.
Do you see where I'm at?
A. Yeah.
Q. And one of things that he lists is American Enka in Asheville. And that was probably a very – a good stack, because we did work in just about – we did work in there just about all the time.
Do you see that?
A. I don't see anything listing –
Q. It's on page –
A. 141?
Q. – 142, lines 10 to 11.
A. Oh. 142.
Q. So to make a cleaner question, in trying

Page 205

to discuss what different job files the company had, what the former president of the company said in 1977, under oath, is that they were at American Enka in Asheville, and there is probably a good stack because – and this is a quote, "because we do work in there just about all the time."
Do you see that?
A. Yes, I do.
Q. Any basis to dispute that?
A. No.
Q. Okay. So in addition to your notes of the testimony of Mr. Howe about doing work there and seeing Covil's presence, you have the former president's testimony kind of reassuring that they did have a regular presence there. Right?
A. Right.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Now that I've given more context to this, when he says that there is a good stack, any idea where that stack is, given that we knew it survived the fire?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea.
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 206

Q. Okay. Do you have any information, from your research about the nature of the business of American Enka, what they were doing there?
A. I'm pretty sure that they were like doing pipe covering and maybe a boiler or two.
Q. And given what you know about the industry and doing that type of work, particularly in the '60s time frame, it's almost certain that that was an asbestos-containing material?
MR. RHENEY: Object to the form, speculation.
THE WITNESS: I don't know that for a fact.
BY MS. DEAN:
Q. I understand that without documents we don't know that for a fact.
A. Right.
Q. But given your understanding of an industry, that would be the first thing you would assume?
MR. RHENEY: Object to the form.
THE WITNESS: I still can't say. It's very possible they used a little bit of everything, but I don't know for sure.
BY MS. DEAN:

Page 207

Q. What else does Covil believe would have worked in high heat situations in the '60s, for instance, that would have been used in a boiler that would have worked in that time frame?
MR. RHENEY: Object to the form.
THE WITNESS: The only thing that I know that they used, at that particular time, was calcium silicate.
BY MS. DEAN:
Q. Do you know what the particular makeup of calcium silicate is?
A. Not right offhand.
Q. You had also mentioned that in your review you were able to show that there was a relationship between Celanese and – Covil, Celanese Rock Hill, specifically –
A. Yes.
Q. – as supposed to Celanese Virginia. What were you able to learn about that?
A. Basically, that they were just there doing work. I really didn't find a whole lot, because we did a lot of work at Celanese, various different ones.
Q. Do you know whether it was insulating contracting work or the supply of insulating

Page 208

materials or both?
MR. RHENEY: Object to the form.
THE WITNESS: I'm not real sure.
BY MS. DEAN:
Q. When you said Covil was there, what did you base that on?
A. That they based it on Howe's deposition, saying that he or Wayne Grant or some – one of his buddies said they saw a Covil truck pulling in at various times. So it could have been material or contracts. But I don't think we actually did – I don't think we did contract with them. But I don't know for sure.
Q. So based on your knowledge of the company, you believe that it's more likely that it was just a material supply and not a contracting?
A. Could be.
Q. In terms of when or how long or the nature of that supply, can you give me any additional detail –
A. The duration of the job?
Q. Yeah.
A. I wouldn't know that.
Q. And then, finally, Bowater, you indicated that in the Howe locations, that's a place

Page 209

where Covil would have been present. How do you know that?
A. At where? I'm sorry.
Q. Bowater.
A. Bowater? Through the files that showed – I think we had material sales coming from the manufacturer to Bowater plant.
Q. Which manufacturer, when you say "the manufacturer"?
A. I can't remember which one it was. It could have been Owens Corning. It could have been Pabco or Raybestos. I'm not real sure.
Q. But there was a document that you reviewed that showed that?
A. I saw an invoice pertaining to that.
Q. Do you remember the date?
A. Oh, no.
Q. Do you have any kind of note that indicates the Bates number or anything that can help me find it?
A. Well, I have a note here from Wayne Grant where he said Starr Davis did the insulators – was the insulators on that job. But he saw a Covil truck pull up for a material delivery.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 210

Q. So that kind of confirmed your thought that it was material supply, not contracting?
A. His deposition, uh-huh.
Q. Sorry.
A. It was on his deposition.
Q. And so does that confirm your thought that this was limited to material supply and not –
A. That would be my thinking.
Q. Okay. Was there anything outside of the deposition testimony that you reviewed or relied on to understand, you know, for instance, that it was Raybestos, Pabco or Owens Corning?
A. No.
Q. Do you have any basis to dispute that Covil was involved routinely at Bowater, going all the way back to the '50s, all the way to the mid-to-late '80s?
MR. RHENEY: Object to the form.
THE WITNESS: I have no idea what dates, but I know we did – they were a customer for quite a while.
BY MS. DEAN:
Q. Any way to give me an idea of how big of a customer were they – they were, or what you mean by "quite a while"?

Page 211

A. Several years. Well, they could have been on that list that you had this morning where they were a Bowater customer. But I did see it somewhere, you know, when they were naming the larger customers.
Q. Before this case-specific customer that you were familiar with, I know you were kind of in a different part of the company, but did you know that they were a customer for the insulating contractors back when you were in the Energy Division?
A. Yeah. I would just hear their name from the salesmen or the estimators.
Q. Okay. I want to hand you what I'm going to mark as Exhibit 29. I only have one copy of this. This is a document that was produced to us from Daniel. And you will see the Daniel Bates label at the end.
(Plaintiff's Exhibit No. 29, Pulp Mill And Hardboard Job Requirement Orders, was marked)
MR. CONNER: What is that Bates number, if you don't mind?
MS. DEAN: It says Daniel, underscore, Stewart, S-T-E-W-A-R-T, underscore, 1866.
MR. CONNER: Thank you.
BY MS. DEAN:

Page 212

Q. And you can see, on the top right, it says Bowater. And it's talking about a pulp mill and hardboard job and that they did back in the 1950s. And in their requirement orders, what they call out for their insulation materials, are Covil Insulating Company, which you can see about halfway down.
A. But it doesn't say where –
Q. Under –
A. – which. I know it doesn't say which plant, which Bowater plant.
Q. Oh. It was given to us in a production for Bowater Carolina, but I don't think that's actually on the document. The only thing that indicates location is where it says "Bowater," handwritten on the upper right.
A. Okay.
Q. Are you aware of work done by Covil at other Bowater locations other than Bowater Carolina?
A. Not specifically. But when they talk about Bowater, I just look at Bowater as a whole –
Q. Yup.
A. – whole entity.
MR. CONNER: Just so we're clear, Jessica, are you talking about Bowater Catawba?

Page 213

MS. DEAN: I thought, in the documents, they reference it as Carolina.
THE WITNESS: This says Bowater Rock Hill.
MR. CONNER: That may be something different. I don't know. But I have heard reference to Bowater Catawba.
MR. RHENEY: My understanding is Catawba and Rock Hill were the same thing.
MR. CONNER: Oh, is that right?
MR. RHENEY: I don't want to swear to that, but that was my understanding.
MS. DEAN: That's my understanding as well, but in their – well, let me look at 20.
MR. CONNER: I don't mean to raise confusion. I just thought I would get it –
MR. RHENEY: Then stop.
MR. CONNER: Okay. I probably should.
MS. DEAN: That one doesn't say.
MR. RHENEY: I have heard them mentioned interchangeably, I think.
MS. DEAN: It's Catawba here, but then it also says –
BY MS. DEAN:
Q. So I have reference to Bowater, in some

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 214

of the documents you have provided, as Bowater Carolina Company. And also references Bowater Catawba.

Does that sound right to you? And that's C-A-T-A-W-B-A. Are you familiar with that?

A. It could be one and the same.

Q. Okay. We will look at that one in actually just a moment. But to go back to here, this document talks about both pulp mill and hardboard job requirements in reference for the insulating materials, Covil Insulating Company. Any basis to dispute that involvement, as reported in Exhibit 29?

A. No.

Q. Okay. Is it Covil's position that there was an asbestos-free alternative that could have been used on that work in the 1950s time frame?

A. I have no idea.

(Plaintiff's Exhibit No. 23, Bowater Project Labor, and Plaintiff's Exhibit No. 24, Subcontract Agreement, were marked)

BY MS. DEAN:

Q. The next exhibit I wanted to show you is Exhibit 23 and 24 – I guess exhibits. Exhibit 23 is a handwritten document we received from Covil

Page 215

that says "Bowater Project Labor" and references time – times in 1986.

Do you see that?

MR. RHENEY: What is that exhibit number again?

THE WITNESS: 23.

Where does it say '86?

BY MS. DEAN:

Q. It's the very first entry when they put times. It says 3-16 –

A. Oh, I see.

Q. – 86. You see where I'm at?

A. And there's some that says '87?

Q. Yes. The second document to, I think, provide better context of what we are looking is marked as Exhibit 24. And this is a BE&K Construction document that is labeled Subcontractor Agreement. And it says it is by and between Bowater Carolina Company of Catawba and BE&K Construction Company and Covil of Greenville, South Carolina.

Do you see that?

A. Yes, I see that.

Q. Covil, there, is the subcontractor. And then they have a scope of work immediately below that.

Page 216

Do you see where I'm talking?

A. Yeah, Scope of Work.

Q. And the time frame of this is dated February 26, 1986.

Do you see that in the beginning?

A. Yes, I do.

Q. I deduced from that that this Bowater project label document, which is marked as Exhibit 26 – excuse me, 23, is likely referencing this work here. Do you agree that, at least based on what we know, that that makes sense?

MR. RHENEY: Object to the form, speculation.

THE WITNESS: I would have no way of knowing that it's the same, one and the same.

BY MS. DEAN:

Q. Are you aware of any other work in that exact time frame that was happening for Bowater, outside of the work talked about in Exhibit 24, which is specifically showing to happen at Bowater Carolina Company of Catawba?

A. No.

Q. Okay. The first thing is in the Scope of Work, it talks about furnishing all supervision, labor, equipment, tool, materials, except as noted,

Page 217

and incidentals required to supply and install all insulation on required piping systems.

A. Uh-huh.

Q. Do you see where I'm at?

A. Yes.

Q. Right after that, and then after the next paragraph you can see, there looks like there is writing but that it has been obscured somehow. There is kind of two missing spaces where paragraphs seemed like they would go. Any idea why?

MR. RHENEY: Object to the form.

THE WITNESS: I have no idea.

BY MS. DEAN:

Q. Do you have any independent information, outside of the documents I have given you, about the scope of this work?

A. No, I don't.

Q. Okay. If you look to the next page, it has a reference on insurance and talks about the need to have comprehensive general liability insurance and have a limit of liability of $500,000.

Do you see that?

A. Yes.

Q. Do you – I recently learned that if the existing insurance coverage wasn't met for a

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 218

particular job, you could get job-specific heightened insurance. Is that something you're familiar with at all?
A. I know a little bit about it, but I'm not familiar with a whole lot of it.
Q. Do you know if this job resulted in getting additional insurance in the 1986 time frame, by Covil, for work at Bowater Carolina?
A. I don't specifically. But we did have a certificate of insurance that we sent with all bids. So if they're bidding on this job, then they would have had to have the certificate of insurance.
Q. Okay. So you answered my question. If the person seeking the job mandated a certain insurance policy before it could be obtained, there would have to be some kind of certificate that you had that insurance?
A. You would have to send a certificate with your bid package.
Q. Okay. Has Covil made any effort, by and through you, either in looking at the Bowater documents we received in this case or by talking to people, learn anything more about the nature of this work discussed in Exhibit 23 and 24?
A. No.

Page 219

Q. Outside of the document that we marked as Exhibit 29, going all the way back to the '50s at Bowater and these two documents we just looked – about to looking at the '80s, have you found other records discussing the nature of the work done by Covil at Bowater?
A. No, I haven't.
Q. Was there ever an effort to search by – by word term, Bowater, to see if you were getting all the hits for Covil's work at Bowater?
A. We did various word searches, but I don't know if Bowater came up pertaining to that. The word searches we did were like in deposition, that sort of thing, to find Covil, the word "Covil."
Q. Oh, I see. Like so if you were searching Sizemore's deposition, you would isolate the parts that had to do with your company?
A. Right.
Q. Okay. In terms of the records Covil has even after the fire, do you know if that search has been done specific to Bowater, either by job number or Bowater's name?
A. No, I don't.
Q. Okay. As it relates to Charlotte Smith's case, you're aware that her husband at the

Page 220

time, Lewis Childers, was deposed. We talked about that. So what I would like to do now is understand where you were able to find any kind of indication that Covil was present at any of the locations he identified.
A. Well, he only worked for Covil from '70 – all in '70 and the first quarter of '71. And then again in '79, and like the last quarter of 1980.
Q. How do you know that?
A. From his Social Security records.
Q. Anything else?
A. That's it.
Q. Okay. And then in terms of where he was when working for Covil, or the testimony we have from witnesses about him being around Covil even when he wasn't working for them, have you been able to cross-reference what Covil knows about that for the different work sites we identified in the deposition notice, which is Exhibit 3?
A. Yes. I have this for Childers' employment for Covil.
MS. DEAN: Okay. Let's go ahead and mark this as 48.
(Plaintiff's Exhibit No. 48, Childers' Employment By

Page 221

Covil, was marked)
BY MS. DEAN:
Q. Okay. And I'm going to hand you back 48. And if you don't mind going through what you were able to ascertain about Covil as it related to the Charlotte Smith locations.
A. Childers worked in the Fiber Industries in Earl, North Carolina, where there is no –
Q. In where?
A. In Earl, North Carolina. And there is no recollection of Covil being there at that particular time. He stated that he worked there during the mid-'70s, but where he actually worked for Covil were in the '79 and '80.
Q. I saw reference to different Fiber Industry locations, including Salisbury, Shelby, Charlotte and Greenville.
A. Yes, there is Salisbury on here. Childers knew nothing about Covil being on a job. But Harley Neelands said that Covil may have supplied the insulation.
Q. You're referencing Fiber Industries in –
A. Salisbury.
Q. Forgive my ignorance of geography, but

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 222

is Earl – is there any way that Earl would be the same thing as any of these other four locations that are referenced?

A. No. I had never heard of it. But checking into it, it's up close to Shelby, North Carolina. And Salisbury is a different location.

Q. The person who has done an extraordinary amount of work on this case says that oftentimes there is two locales for one spot, just to confuse people. So that helps. Thank you.

Outside of the testimony from the – from Mr. Neelands, were you able to find any independent verification of Covil's presence at Salisbury – at the Fiber Industries location in Salisbury, North Carolina?

A. Just that Neelands said that he thought that Covil could have supplied insulation to the plant, but that has not been verified.

Q. I want to show you a couple of places where I've seen at least reference to it. First, if you see the testimony of Palmer Covil, indicating that there was a presence by Covil at Salisbury, North Carolina, at least by the date of his deposition in 1977 –

A. Have I seen it?

Page 223

Q. Yeah.

A. No.

Q. Okay. Do you still have that testimony from volume 2 in front of you?

A. Yes.

Q. If you look to that same page that we were on, which was 142, right after referencing American Enka on lines 10 to 11, he goes on to say – lists that they were at Fiber Industry, Salisbury, North Carolina.

Do you see that?

A. Yes, I do.

Q. Okay. Again, this is in reference to files that were being reviewed in 1977 for work sites. Any idea where that file is?

A. I would have no idea.

Q. Okay. I guess today it's fair to say that's not something that you specifically saw?

A. I never saw it, no.

Q. Bear with me for one moment. If you can return to Exhibit 16, which we looked at a little while ago, it is a document –

A. Okay.

Q. The last page of that document is that resume of major material contracts for Covil in

Page 224

Greenville, South Carolina. And you can see there one of them that's listed is Celanese Fibers Operations.

Do you see that? It's on the very last page.

A. Very last page?

MR. RHENEY: I don't think you're looking at the same thing.

MS. DEAN: Is it Exhibit 16?

THE WITNESS: 16.

MS. DEAN: I have two documents there, that's why.

THE WITNESS: Oh, okay. That's 20. Sorry.

BY MS. DEAN:

Q. No. Hold on a second. Just to have a clean record, if you look to the last page of Exhibit 16, it's one of the resumes of major material contracts for Covil in Greenville, South Carolina.

A. Uh-huh.

Q. And one of the plants listed is the Celanese Fiber Operations.

Do you see that?

A. Yes.

Page 225

Q. And in terms of the locations where the work done – it's actually three locations: Salisbury, Shelby, and Charlotte.

Do you see that?

A. Yes, I do.

Q. For over 150 – well, not over. For $150,000.

A. Right.

Q. And the nature of the work, it says: "Piping and Equipment Insulation and Accessories." Correct?

A. Right. Yes.

Q. So we have the president of the company indicating that there was work done specifically at the Salisbury location in the deposition. We have a co-worker who remembers seeing it, and we also have documentation of piping and insulation work happening as a major material contract for Covil. Is that fair?

MR. RHENEY: Object to the form.

THE WITNESS: True.

BY MS. DEAN:

Q. Do you have, in your notes for the – related to the Charlotte Smith case, the work at Fiber Industries Greenville?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 226

A. No, nothing about Greenville.
Q. I want to hand you what we are going to mark as Exhibit – or what we have marked as Exhibit 13. It's probably best to take that clip off because we are going to go back into a few of these documents, for at least now. But that was the Tax Exempt Job that we looked at together earlier this morning.
A. Do you know what exhibit number it was?
Q. 13.
A. 13. Okay. All right.
Q. And the only question – actually, there is a couple questions, now that I look at this more. Do you see that one of the companies listed in here, in this 1974 document, at the very bottom of the first page, is Deering Milliken?
A. Uh-huh. Yes, it is.
Q. We will come back to that in a little bit, but I don't think we talked about that the first time.
If you see on the second page, you can see that Fiber Industry jobs is also reported as a Tax Exempt Job. In fact, they say "All" the jobs are tax exempt –
A. Yes.

Page 227

Q. – on page 2 of this document.
Do you see that?
A. Yes, I do.
Q. Okay. I think I interrupted you when you were going through what Exhibit 48 told you about where Covil may have been in relation to where Mr. Childers worked. Did you get through everything?
A. There was – we talked about Salisbury, Celanese Spartanburg.
Q. Celanese Spartanburg, I don't have that you told me anything about. What are you aware of in relation to Covil's contact with that location?
A. So he was – he was there for two or three months in the early '70s. He worked for Daniel. That was a contractor on the job.
Q. Do you have any indication that the materials were supplied by Covil?
A. Harley Neelands said that he thought Daniel bought the material from Covil and supplied the insulation, but that's all he said.
Q. So outside of you broadly knowing that there had been a long-lasting relationship between Daniel and Covil, do you have anything, in terms of specific records to confirm that?

Page 228

A. No.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Any basis to question it? I mean, is there anything that you know of that makes that seem inaccurate?
MR. RHENEY: Object to the form.
THE WITNESS: I have nothing formal, no paperwork or anything to say yea or nay.
BY MS. DEAN:
Q. Okay. And any other location for – that relates to the Charlotte Smith case where you have any indication of Celanese presence?
A. No. That's all I have.
Q. Did you see, in any of the deposition testimony relating to Lewis Childers, about working at Duke?
A. I don't recall any.
Q. Okay. Maybe the easiest way to approach this is did you do research for the Duke facilities in relation to Mr. Sizemore's locations that were identified in his deposition notice?
A. Did I? No.
Q. So if you look to Exhibit 3, which is the deposition notice for Charlotte Smith's case,

Page 229

locations 13 to 22 are all related to Duke Power: Duke Power Allen, Catawba, Cliff stream (sic), Lee, Steam, and it goes on.
Do you see where I'm at?
A. Yes. Well, I see on this sheet that I have where his jobs – that he was there.
Q. Has there been a search of the Covil records to find out how often and how frequently they were repeatedly at each and every one of these locations?
MR. RHENEY: Object to the form.
THE WITNESS: I don't recall any.
BY MS. DEAN:
Q. Okay. Whether it be by Duke Power, by the particular station's name, by the town that the station is in or by the job number associated with the station, was there a review of Covil's records to see what hits they could find relating to these different Duke Power locations?
A. Not that I know of.
Q. Okay. Before we get to what I have been able to find for each location, you are aware, on behalf of Covil, that Covil and Duke had a long-lasting, extensive relationship. They have worked for many, many years together. Correct?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 230

MR. RHENEY: Object to the form.
THE WITNESS: They did. They did.
(Plaintiff's Exhibit No. 15, Covil Corporation Congratulates Duke Power Company Document, was marked)
BY MS. DEAN:
Q. I want to hand you Exhibit 15 that I think just evidences at least part of what you said. And ask you, first of all, if you recall seeing this document that I got from Covil.
A. I don't recall seeing this.
Q. Okay. The second page I primarily attached because it gives us a date for a reference of the time. And it's dated May 4th, 1979.
Do you see that?
A. I do.
Q. And then the first page says: "Congradulations (sic) Duke Power Company for 75 years of faithful service to the community it serves. We" – and at the beginning it says "Covil Corporation," so we know this is coming from Covil – "are especially proud to have been a part of Duke's growth." And then it has kind of a motto. "When it comes to insulation, Covil has you covered." Right?

Page 231

A. Right.
Q. Okay. And, again, when they are talking about being a part of Duke's growth as they celebrate their 75 years, this is in the late 1970s. Correct?
A. True. Yes.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. And we, earlier today, looked at documents where they were, for lack of a better word, bragging. They have done big insulating jobs, and one of the first ones they reference are DuPont and Duke. Do you remember that?
MR. RHENEY: Object to the form.
THE WITNESS: I do.
BY MS. DEAN:
Q. There is one – before we get to the specific plants, there is one thing I saw, kind of repeatedly in the documents that I didn't understand, where many of the records show a relationship with Covil doing work for Duke but also referencing First Federal corp of South Carolina. Is that a name you're familiar with?
A. That was our lending institution or our bank at one time.

Page 232

Q. Okay. And so I will see Duke contracts that show them as a party. And to your understanding, they are affiliated with Covil, not necessarily Duke.
A. Right.
Q. Okay. That was – okay. That helps.
I want to start with the Allen Steam Station in Belmont, North Carolina. Is that a place where you know that Covil had historically done work for Duke?
A. I'm pretty sure we've done work there. I don't recall any specifics on it, but –
Q. And based on just the records we have alone, that's work that extended for multiple years?
A. True.
Q. A couple of things I was able to find. If you can turn to Exhibit 13 again, and that's that Tax Exempt letter. And you can see that the Allen Plant Jobs are listed in 1974 for "All" jobs.
MR. RHENEY: I'm sorry. What exhibit, again?
MS. DEAN: It's Exhibit 13 –
MR. RHENEY: Thank you.
MS. DEAN: – which is the –
BY MS. DEAN:

Page 233

Q. It's the fourth entry, Allen Plant Jobs, All. And this is dated July 31st, 1974.
Do you see that?
A. I do.
Q. In addition to that, have you seen any efforts to be prepared to talk about this location which was listed in both, I will represent, the Smith and Sizemore notices? Any other records that evidence a presence by Covil at Duke Power?
A. All of Duke Power or just Allen Steam plant?
Q. Allen. Sorry.
A. No.
(Plaintiff's Exhibit No. 30, Power-House Division Document, was marked)
BY MS. DEAN:
Q. Okay. I want to show you what I have marked as Exhibit 30. You see here that this is a Covil document that we got. And it's labeled the "Power-House Division"?
A. Yes.
Q. And what it reports is that: Beginning on January 1st, 1973, Covil Insulating Company will have a new division under the management of Mr. Cash entitled the Power-House Division.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 234

Do you see that?
A. I do.
Q. And the way I read it is they are giving, for some of the existing jobs, or old jobs, a new number now that they have a new division. And they list the "Old Numbers" in one column, the "Job Name" and location in the second column, and then the "New Job Number" now that they have a new division.
Do you see that, as well?
A. I do.
Q. For – starting with Allen plant, they reference that before this division starts in 1973, there are two different entries for the old job numbers, the pre-'73 numbers. And they say "Duke Contract #3 & 4" and "Duke Contract #5." And then, finally, they assign them new job numbers.
Do you see that?
A. Yes.
Q. Have you made any effort to determine, based on either the old number or the new number, the nature, extent, time frame – and then we know one is before '73, one is after, but anything about those?
A. No, I haven't.

Page 235

Q. As opposed to referencing this three different times, I'm going to try to kind of group them together, although I was trying to do them by station. But here they reference two other stations or plants for Duke. Marshall Plant is right above Allen Plant.
Do you see that?
A. I do.
Q. And they reference three different old job numbers, or pre-'73 numbers, and they assign it three new numbers.
Do you see that?
A. Yes.
Q. And then for the – how do you say the Oconee?
A. Oconee.
Q. Oconee?
A. Uh-huh.
Q. Okay. For the Oconee job, I mean, there is – there is nearly – I think there is a dozen different jobs that are there.
Do you see that?
A. Yes.
Q. And for each one of them, they have a pre-'73 Old Job Number and their assignment and New Job Number.
Do you see that?
A. Yes.
Q. Same question for the Oconee and Marshall Plants that I asked for Allen. Any attempt to, by Covil, ascertain what is available to them about these projects, based on these job numbers?
A. No.
Q. That certainly just, in and of itself – kind of evidencing what you're saying, is that for many years there was a relationship between Covil and a variety of the different Duke facilities. Fair?
MR. RHENEY: Object to the form.
THE WITNESS: Yes.
BY MS. DEAN:
Q. The next Duke location I want to talk about, you pronounced for me once and I have forgotten. It's B-E-L-E-W-S.
A. Belew. Belew.
Q. Belew?
A. Belews Creek. Belew.
Q. Like the color.
A. With an E, Belew.
Q. Okay. I'm going to try. That was in

Page 236

Page 237

Walnut Cove?
A. I believe so.
Q. Okay. Are you aware that there was an extensive, longstanding relationship between Covil and this particular station?
MR. RHENEY: Object to the form.
THE WITNESS: No, not right offhand. We've had, you know, there again, several jobs with Duke, but that one I'm not familiar with.
BY MS. DEAN:
Q. Okay. If you look to Exhibit 10, which we have already marked, and Exhibit 13 that we have already marked, I just would like to confirm that in Exhibit 13 you see that this is a particular and specific location for Duke Power identified in that Tax Exempt Jobs done in '74. And then after we are able to do that, talk to you about Exhibit 10 in a little bit more depth.
I have a couple – Exhibit 13 is largely alphabetical.
MR. RHENEY: I'm sorry. What did you say?
MS. DEAN: Huh?
MR. RHENEY: Did you ask a question?
BY MS. DEAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 238

Q. Just to confirm that the Duke, Belews Creek jobs were referenced in Exhibit 13, which –
A. Yes, it was.
Q. – referenced multiple jobs in '74.
A. Yes.
Q. And then if you can get to Exhibit 10 –
A. Okay.
Q. – the last page we looked at before is the Resume of Work Performed. And one of the things explicitly listed here, in the Resume of Work Performed by Covil, is Belews Creek –
A. Yes.
Q. – for 4 million dollars at Duke Power, involving Insulation & Lagging, in Walnut Cove, North Carolina in '76.
Do you see that?
A. Yes, I see it.
Q. In terms of the specifics of that work, how much insulation and lagging was removed? How much was put on when it was happening? How many people were there, over what months? Have you investigated any of that to give me more detail?
A. No, I haven't.
Q. Are you aware that this work went on for multiple years prior to what's being listed in

Page 239

Exhibit 10 in 1976?
MR. RHENEY: Object to the form.
THE WITNESS: I'm not aware of it, no.
BY MS. DEAN:
Q. I want to hand you what I'm going to mark as Exhibit 11 –
(Plaintiff's Exhibit No. 11, Covil Insulation Company Document, was marked)
BY MS. DEAN:
Q. – which is a document we received from Covil, that lists the Covil Insulation Company and gives some background information, and then on the second page gives some information about its net worth and its annual construction volume.
Do you see that?
A. I do.
Q. First, as it relates to Oconee, and I'm skipping around again now just so we don't have to keep returning to the same document, it shows, in '72, '73, '74 and '75, millions and millions of dollars of work being reported. Correct?
A. Yes.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. And it specifically indicates that this

Page 240

is thermal insulation and lagging work. True?
A. True.
Q. And the amounts range from 7 to 9 million each one of those years so that, you know, we are talking over $35 million. Right?
A. Right.
Q. Again, if I want to know more about what was being put in in '72 or what was taken off or how many people were involved, any of those details, have you been – have you done an investigation of Covil's records to find out what we know about that?
A. No, I haven't.
Q. If you turn to the last page, there is "Current projects under construction." And one of the very first projects they reference is the Belews Creek Power Plant in Walnut Cove, North Carolina, Duke Power.
Do you see that?
A. I do.
Q. And it's thermal insulation and metal lagging, and it shows the exact same contract value of 4 million. Right?
A. Yes.
Q. But unlike the prior document that we looked at, this has a duration of work and indicates

Page 241

that as of June 19th, 1975, the date of the document, this project has gone on for four years.
Do you see that?
A. I see that.
Q. And so – and this is – in your review of the record, when I asked whether we could confirm whether there had been years of work done at this particular location, you hadn't found this.
A. I haven't found it and didn't know it.
Q. And in an effort not to keep returning, there also is a reference to McGuire Nuclear Power Plant here.
Do you see that?
A. Yes.
Q. This is the third Duke facility that is referenced in this document. This one is located in North Carolina and has a description of work. This is thermal insulation and metal lagging. Correct?
A. Yes.
Q. The value of this contract is 5 million dollars. Correct?
A. That's correct.
Q. And in terms of duration, this one goes back five years –
A. Five years.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 242

Q. '70 to '75. Correct?
A. Yes.
Q. If I want to know, for either one of these very large projects, the 4 million or $5 million project, what products they put in in '70 versus '71, what was taken out, who did it, have you done any research to be able to tell me what Covil knows from its own records about the nature of this work?
MR. RHENEY: Object to the form.
THE WITNESS: No, I haven't done any of that.
BY MS. DEAN:
Q. Do you remember, from the earlier documents that we reviewed, that at least there are some records that indicate that part of this Belews Creek, Walnut Cove project with Duke Power involved asbestos-containing products?
A. That – asbestos what?
Q. Asbestos-containing products.
MR. RHENEY: Object to the form.
THE WITNESS: I have no reason to believe that.
BY MS. DEAN:
Q. As a reminder, do you recall us looking

Page 243

at the 1973, May 30th document where there were hundreds of yards – I think it was over 450 yards of asbestos cloth sold to that exact location?
A. Yes.
Q. Okay. I want to hand you one more document on this location. It may already be marked, Exhibit 22. It's right here. This is a Contractor's Prequalification Form.
I'm sorry. I handed it to you and then did a fake-out. But I didn't have a sticker on it. I apologize.
(Plaintiff's Exhibit No. 22, Contractor's Prequalification Form, was marked)
BY MS. DEAN:
Q. I hand you Exhibit 22. This is a document for Covil Corporation, to your insured, giving some background information about the company.
Do you see that?
A. Yes, I do.
Q. And at the bottom it says:
"Form No. 102" and then gives the date April 1975?
A. Yes.
Q. If you look to the next page, it gives the name and location of different work being done.

Page 244

And one of the places that it references here is the Belews Creek Power Plant at Duke and the 4 million contract amount.
Do you see that?
A. Yes.
Q. And as of 1975, it indicates that it's only 80 percent complete.
Do you see where I'm at?
A. Yes, I do.
Q. It also confirms work by Covil, done at McGuire. And it indicates that's only 5 percent complete for that $5-million-dollar contract.
Do you see that?
A. I do.
Q. Finally – and this will reference several locations that we've either looked at or will look at in the future, but this is further verification of Covil's involvement in American Enka for a $200,000 contract.
Do you see that?
A. I see that.
Q. It also references work done at Oconee Power Plant for Duke for $3 million?
A. Yes.
Q. And then it references Cliffside Steam

Page 245

Plant, doing work for $650,000 in 1972.
Do you see that?
A. I do.
Q. For any of these locations, if I want to know for Cliffside Steam Plant anything more about the nature of the work, what was put in, what was taken out, how many people were working for $650,000, is that something that you have investigated based on what is available to Covil in their own files?
A. No, it is not.
Q. Do you know when the Belews Creek, Walnut Cove Duke Power plant was built?
A. Not right offhand, other than what we have already gone through.
Q. And I wasn't able to ascertain this in the time that we had, but I don't know, especially given the magnitude of this contract, if you guys were building the place or if it was an existing plant where work was being done. Do you know –
A. It was an existing plant where work was being done.
Q. Exhibit 31 –
MR. RHENEY: When you're at a good breaking point. It doesn't have to be now.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 246

MS. DEAN: I've got two more documents on this spot, and then we'll – I will be happy to break. This is very tedious.
(Plaintiff's Exhibit No. 31, 7-16-73 Letter from Travis Cash to P.H. Claxton, was marked)
BY MS. DEAN:
Q. I hand you Exhibit 31.
Do you see that this references, at the top, Covil Insulation Company, July 16th, 1976? And it's in reference to Westinghouse and talking about quotes given to furnish insulation materials for those Westinghouse turbines, along with the associated boiler feed pumps?
A. This says 1973 on mine.
Q. Did I say something different?
A. '76.
Q. Oh. I meant '73. Thank you.
A. Okay. Yes.
Q. Did I get everything else right?
A. Yes.
Q. Okay. And then the next page just confirms that, as opposed to just providing the quotes, that this is work done by Covil, on the turbines, doing turbine insulation at Walnut Cove.
Do you see that?

Page 247

A. I do.
Q. Have you made any effort, or did you even know that Covil's lawyers had the Westinghouse documents pertaining to this job that Covil did?
A. No, I didn't.
Q. So if I want to ask about specifics, that's not something you have had a chance to review?
A. No.
Q. Are you familiar with brown mud cement?
A. A little bit.
Q. What is it?
A. It's similar to One Shot, but the brown mud contains no asbestos.
Q. How do you know that?
A. Charles McWhorter confirmed that in his conversation, and I'm pretty sure it was in my dad's deposition.
Q. Okay.
A. Maybe.
Q. And Charles McWhorter is the person that you talked to –
A. Yes.
Q. – beforehand.
Do you have any documentation of who

Page 248

made it, what their specifications show? Any more detail other than the memories of people that worked for Covil?
A. I have no information, no.
Q. Okay. Are you aware of the different manufacturers of high-temperature material, cement material supplied by Covil, historically?
A. I know some. Gold Bond. I think Raybestos may have made some. I'm not 100 percent sure.
Q. And then I saw reference, in some of the depositions, to blue mud cement. Is that something –
A. Blue mud is different. It's what came out earlier, in the '60s, '70s. And brown mud replaced blue mud in the '70s.
Q. And was that a shift from an asbestos-containing mud or cement to a non-asbestos –
A. Yes.
Q. – based on what you know?
Do you have any information or records to show what – who supplied the blue mud and how much asbestos was in it?
A. It's my understanding blue mud had like

Page 249

a quarter of 1 percent – three-quarters of 1 percent of asbestos in blue mud.
Q. And where is – what's the source of that?
A. I'm thinking it was my dad's deposition.
Q. Anything else that you can think of?
A. No.
Q. Do you know what fiber type of asbestos was in that?
A. No, I have no idea.
Q. This may not trigger any memories, but just to make sure, there is chrysotile, crocidolite and amosite is the various commercial types of asbestos that were historically sold. Any idea which type would have been used in blue mud cement?
A. No, I would have no idea.
Q. Crocidolite was called "African blue," largely because under microscope it had a blue tint. Any idea if that's why this was called blue mud?
A. Everybody called it "blue mud" or "One Shot." I have no idea.
Q. Were One Shot and blue mud synonymous, or were those different products?
A. It's one and the same, I believe.
Q. Okay. Who manufactured that, do you

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 250

know?
A. Gold Bond was one of them. But I have no idea about everybody that – there were several that manufactured it, but –
MS. DEAN: Okay. We have been going for a while. Want to go ahead and take a break?
THE VIDEOGRAPHER: This completes Media Unit Number Three. Off the record at 17:02:30.
(Break In Proceedings)
THE VIDEOGRAPHER: We're beginning Media Unit Number Four. Back on the record at 17:13:45.
BY MS. DEAN:
Q. Throughout the day we have looked at records regarding Cliffside Steam Station, Dan River, on that Tax Exempt sheet, Lee Steam Station and Marshall where those Duke Power locations are mentioned. The only follow-up I have is if I want to know anything more, outside of what I found in those documents about the nature of that work, have you done any investigation in order to be able to tell me that, based on Covil's records?
A. No, I haven't.
(Plaintiff's Exhibit No. 35, 10-30-78 Letter from Owens Corning Fiberglas Corporation to Travis Cash, was marked)

Page 251

BY MS. DEAN:
Q. And then as it relates to McGuire, we looked at Exhibit 10 that showed that this was a 5-million-dollar job; Exhibit 11, that showed the same; Exhibit 22, that showed it was only 5 percent complete.
I want to show you, I think, two more documents on that, just to finish up. Starting with Exhibit 35, you can see this is dated October 30th, 1978, and it's relating to the McGuire Nuclear Plant. And it's from Travis Cash, at Covil Corporation, about insulating with both Kaylo and Fiberglas.
Do you see that?
A. Yes, I do.
MR. RHENEY: Objection. You said it's from Travis Cash?
MS. DEAN: If I did, I misspoke.
BY MS. DEAN:
Q. It's to Travis Cash, at Covil Corporation –
MR. RHENEY: Okay. Thank you.
BY MS. DEAN:
Q. – regarding Kaylo and Fiberglas at McGuire Nuclear Plant.

Page 252

MR. RHENEY: Okay.
BY MS. DEAN:
Q. Is that right?
A. That's true.
MR. RHENEY: Objection.
BY MS. DEAN:
Q. And one of the things it talks about, in terms of where they're insulating, is who is going to invoice who. And one of the things they reference is for the GE turbine shipments, Covil will invoice General Electric.
Do you see that?
A. Yes, I do.
Q. I asked this, I think, more broadly, but are you aware, in relation to this project, where any other – where General Electric provided Covil or Duke or anyone any information about what it knew about the dangers of asbestos, going all the way back to the 1930s?
MR. RHENEY: Object to the form.
THE WITNESS: I'm not familiar with it.
BY MS. DEAN:
Q. Huh?
A. I'm not familiar with it.
Q. Okay. I want to hand you what I have

Page 253

marked – we have already marked Exhibit 36, so I don't think we need to return back to that. Specifically, as it relates to McGuire Nuclear Station, do you recall Mr. Waters' testimony about his experiences working with Covil at this location?
A. I didn't review Waters' testimony.
Q. Okay. I will represent to you he is a co-worker, listed in the series of cases who discusses working for Covil at this location and using asbestos products in the mid- to even late-'70s. With that context, have you done any kind of investigation to verify whether his claims are accurate or not?
A. No, I haven't.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. As it relates to Duke at Oconee Nuclear Station, we already looked at Exhibit 10 and 11 and 22, so I think I have just one more that I would like to show you, which is Exhibit 19.
(Plaintiff's Exhibit No. 19, Memo from Paul Talley to Customer Service, et al., was marked)
BY MS. DEAN:
Q. This is the location where we saw that there was a multi-million-dollar contract and that

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 254

it lasted the duration of four years. Do you recall that?
A. I do.
Q. Here, we can see that they are at least reporting that the work was going to be closed out in order to kind of get a bookend in the other direction on January 9th, 1976.
Do you see that?
A. I do.
Q. Okay. That's all I wanted to ask you about that one.
MS. DEAN: And I don't think I gave you a copy. I'm sorry.
MR. RHENEY: Okay.
BY MS. DEAN:
Q. Going back to some of the other locations identified for Ms. Smith's case, there was a reference to Westinghouse Turbine Plant. Did you review the records at all to figure out whether and what work was done by Covil for Westinghouse? And I don't mean on a Westinghouse turbine, but actually at an actual Westinghouse facility.
A. No, I didn't follow up on that.
Q. We already talked about Celanese.
Same question for Cannon Mills in North

Page 255

Carolina.
A. No.
Q. Same question for Cone Mills in Concord, North Carolina.
A. No.
Q. And when you say "No," that's not something that you followed up on or did –
A. I didn't follow up on it, no.
Q. There is also a reference to Milliken in South Carolina. Are you familiar with that company?
A. I know it exists. I'm not familiar with what they do or our work there or anything.
Q. Are you aware of a long-standing relationship between Covil and Milliken?
A. No, I'm not.
Q. If you don't mind finding Exhibit 21. I just – I'm hoping to refresh your memory where – as you look. But we looked at this earlier today where it discussed Covil having insulation requirements with Milliken for the past 20 years, providing their insulation services. And we even talked about how it was dated in 1980, so 20 years would be from 1960 to 1980. Once you have a chance to look at that again, can you just confirm that that's accurate, based on the first page of

Page 256

Exhibit 21?
MR. RHENEY: Object to the form.
THE WITNESS: That's what it says.
BY MS. DEAN:
Q. So the good news is some of those locations are covered in Mr. Sizemore's list, but there is also quite a few that are not. And so the next topic I would like to discuss with you is starting off with your notes of what you were able to learn about Covil's interaction with any of the Sizemore locations.
A. I don't think I have a whole lot on Sizemore. I know he was not a Covil employee, but he worked at 56 different places throughout his career.
Q. At least.
A. At least. That we know of. So let's see if I've got any notes here.
Q. And if you want to hand me the documents, I can start kind of organizing them back in order, in the event that we need to reference them again, while you find your notes.
A. I just want to make sure I don't get mine mixed up with yours.
Q. Thanks.

Page 257

A. That should be all of them.
All I remember jotting down about Mr. Sizemore is he worked for Daniel on the Bowater and DuPont jobs.
Q. We have already talked about having a long-standing relationship with DuPont, and so my only real follow-up question is whether we are talking about DuPont Camden Plant, Brevard Plant.
A. I don't have his paperwork.
Q. Sorry. Let's make sure I'm not missing any particular locations. Give me one second. Yeah, I think it's just those two locations. Whether we're talking about their Camden Plant or Brevard Plant, did you do any investigation of what's available in the Covil's file, either by that plant name or by job number to determine the nature of any specific work done by Covil with this, you know, customer that was known to be a big customer of theirs?
A. No, we did not.
Q. And then I think I may have interrupted you, but I'm not sure, in going through the list on Sizemore, what you were able to –
A. Well, I just said that's all I had in my notes was what I mentioned. He worked for Daniel on

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 258

the Bowater and DuPont jobs.
Q. In order to figure out whether any of the specific work he did in Daniel – for Daniel involved Covil as either a subcontractor for Daniel or insulation products supplied by Covil, did you do any kind of investigation of the records to be able to see whether that connection you know exists generally, exists specifically for his specific location?
A. No, I didn't.
Q. Okay. There were a couple of Duke locations that we haven't already discussed, in relation to Ms. Smith's case, that I just want to ask you about as a group. There is Duke Energy Buck Steam Station in Rowan County, Duke Energy in Riverbend Steam Station in Mt. Holly, North Carolina. For either of those locations, did you do any investigation based on the actual station name or job number in order to determine what, if any, involvement Covil had at those locations?
A. No, we didn't.
Q. For Duke Energy at Cliffside Steam Station, we looked at a document that indicated, in Exhibit 10, that there were $650,000 of insulation and lagging work where the main contractor was

Page 259

Daniel, and it was done in 1972. Do you generally recall looking at that?
A. Yes, I remember looking at it.
Q. If I want to know anything more specific other than Daniel was the primary – other than what is reflected in Exhibit 10, is that anything that you have investigated, based on what Covil has available at the time?
A. I haven't seen anything on it.
Q. Okay. General Electric Power System and Gas Turbine Plant in Greenville, South Carolina, is another on the list. And I know we have talked generally about General Electric turbines, but this is an actual plant for them. Have you investigated what work, if any, Covil had done, either based on that name or job number at that location?
A. No, I haven't.
Q. And Exhibit 13, that list of Tax Exempt Jobs, lists General Electric and says jobs but doesn't – it just says "All," as opposed to providing specific numbers. Can you give me any more information, outside of the date of this being 1974, of what "All" – what "All" jobs for General Electric would entail?
A. I would have no idea.

Page 260

Q. And in terms of not having any idea, you haven't researched to see whether the company has any better idea of what that notation in Exhibit 13 means?
A. No.
Q. Okay. Wright Manufacturing was a location referenced. Is that something that you have researched in Covil's records?
A. Repeat the name.
Q. Wright's Manufacturing.
A. I'm not familiar with it.
Q. Bolan Machine & Manufacturing?
A. I'm not familiar with it.
Q. Halter Marine?
A. I'm not familiar with it.
Q. Brunswick Nuclear Generation (sic) Station?
A. No.
Q. Saucer Marine Services?
A. No.
Q. We have talked about some Celanese places, but I don't think we have talked about Cape Industry Chemical Plant in Wilmington, North Carolina. Is that something that you have reviewed in order to see what Celanese has available on it?

Page 261

A. No.
Q. And when you say, "No" or "not familiar," can I take that to mean that's not something that you have gone, either based on job number or the title of the plant –
A. No, I haven't researched it. And when I say I'm not familiar, I've never heard of it. I'm not familiar with the company at all.
Q. Okay. And the reason I'm following up is that I might – you could mean I'm not familiar with it, even after doing your research, but that's not really aiming – you're not familiar with it and they haven't reviewed the records to figure out whether there is anything in there?
A. Right.
Q. Fair? Okay. Then I won't keep going back to that. I'm sorry. There is a Port Everglades Power Plant?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Is that something – is that something researched –
A. It's not anything I know anything about. If it was, it was our industrial associate's job in Jacksonville, but I still know nothing about it.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 262

Q. Okay. And haven't researched?
A. No.
Q. Viking distillers in Albany, Georgia?
A. I'm not familiar with it.
Q. And that's a location – that's one of the locations for your branches in Albany?
A. Right.
Q. Okay. Y-12 National Security Complex?
A. Never heard of them.
Q. James River paper mill?
A. I'm not familiar with it.
Q. There are several Exxon facilities listed here. Regardless of the particular location, either physically or the plant, have you done any research to evaluate whether Covil had involvement?
MR. RHENEY: At where?
MS. DEAN: At any of these Exxon locations.
MR. RHENEY: Exxon. Okay. Thank you. Sorry. I didn't hear that part.
THE WITNESS: No, I haven't.
BY MS. DEAN:
Q. International Paper and Riegelwood Paper Mill in Southport, North Carolina? Any research?
A. No.

Page 263

Q. Stone Container paper mill?
A. No.
Q. Champion Paper is a company that we saw both in Exhibit 10, that there was a $225,000 contract where Daniel was the key contractor in 1965, and listed in Exhibit 16 as one of the larger companies that Covil had worked with. Do you recall that?
A. I do recall that company.
Q. In terms of doing any further investigation outside of what's in Exhibit 10 or 16, is that something you have done?
A. No.
Q. Inland Orange Paper Mill, have you done any research on that?
A. No.
Q. General Chemical Plant?
A. No.
Q. Cargill Corn Milling Plant?
A. I'm not familiar with that.
Q. PG&E, Pacific Gas & Electric?
A. No.
Q. BP Amoco?
A. No.
Q. General Chemical Plant?

Page 264

A. No.
Q. South Carolina Electric & Gas in Walterboro, South Carolina, was one that we saw listed on Exhibit 13 and talked about later. And it's listed in Exhibit 16, in relation to their Columbia location. If I want to know anything more than what's listed there about what was done, when it was done, have you investigated that?
A. No, I have not.
Q. Wheelabrator waste-to-energy plant in Pompano Beach, Florida.
A. I'm not familiar with it.
Q. Are you familiar with South Carolina Electric & Gas in Charleston, South Carolina?
A. I have heard of it, yes.
Q. Is that something that you know, independent of the records, as being a customer of Covil?
A. I'm not sure.
(Plaintiff's Exhibit No. 17, 7-28-82 Letter from Travis Cash to George Self and Attachments, was marked)
BY MS. DEAN:
Q. Okay. I hand you what we have marked as Exhibit 17. And you can see this is dated July 28,

Page 265

1982. And it's an insulation quotation for Southern California (sic) Electric & Gas.
MR. RHENEY: South Carolina.
THE WITNESS: South Carolina.
MS. DEAN: Did I say North?
MR. RHENEY: Southern California.
MS. DEAN: Oh, God bless. Let's try all over again. And, please, no one designate this.
BY MS. DEAN:
Q. What I have just handed you says July 28th, 1982. And it is an insulation quotation relating to your client South Carolina Electric & Gas.
Do you see that?
A. Yes, I do.
Q. And it's referencing that it's in Charleston, South Carolina?
A. Yes.
Q. If you go to the next page, you can see that this has a Contractor's Qualification Statement. And we have seen similar statements that we have looked together at today.
A. Yes.
Q. Do you recall that?
On the next page it talks about how they

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 266

have 235 field construction workers and then references the amount of work done at McGuire Nuclear Station for Duke.
Do you see that?
A. Yes.
Q. And we have kind of talked about the McGuire station in several contexts, but here it's referencing, in '78, '79, '80 and '81, millions and millions of dollars each of those years in contract volume. Correct?
A. Yes.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Varies from 7 to 12 million, and totals, in those four years, over $40 million.
MR. RHENEY: Object to the form.
THE WITNESS: I see that.
BY MS. DEAN:
Q. And I think I said "over 40 million." It's actually at 40 million. Fair?
A. Right.
Q. We looked at this document earlier, in terms of the contractor liability rating of .76.
What I would like to look at, that we haven't looked at before, first, is on Bates 8813 on

Page 267

Customer References. And you see there that one of the references that Covil gives when doing bids includes South Carolina Gas & Electric, Duke Power Company, and Daniel. Correct?
A. Yes.
Q. And then on the last page, I think we have already gone through, in other examples of the resume, each of those locations. Correct?
A. Yes.
Q. You know what? The only thing I don't is if you look at the Carolina Power & Light, there is an entry there for $156,000 to do insulation and lagging work.
A. Yes.
Q. Do you see where I'm at?
A. I do.
Q. Okay. That's all I wanted to ask you about that.
MR. RHENEY: What's that, 17?
THE WITNESS: 17.
BY MS. DEAN:
Q. The next locations, I'm going to put them as a group. And if that's not something that's objected to, I think we might close this out.
A. Okay.

Page 268

Q. For Fort Howard paper mill; Palm Beach Resource Recovery Corp; Chambers Medical Center; Mill Creek Generation (sic) Station; Moss Landing Power Plant; Big Brown Steam plant; and then Florida Power & Light plants in Fort Lauderdale, Sanford, Cocoa Beach, or Titusville, did you do any research of Covil's records to determine what, if any, involvement they had there?
A. No.
(Plaintiff's Exhibit No. 18, 11-1971 through 1-1975 Subcontractors/Vendors - Hoechst Spartanburg Job Site, was marked)
BY MS. DEAN:
Q. I want to hand you what I have marked as Exhibit 18. This is the second document I now have that I obtained from Daniel. It's Bates-labeled Smith 156. And I only have one copy of this. But it references work done at Hoechst Spartanburg between November '71 through January 1975. And if you look at this, you can see that they are at least referencing that one of their subcontractors on this project is Covil Insulation. And for ease of reference, I'm going to just highlight that. Can you confirm that that's what is being reported?
MR. RAINSFORD: What is the exhibit

Page 269

number on that, please?
THE WITNESS: 18.
MR. RAINSFORD: 18? Okay.
THE WITNESS: Yes, I can confirm that Covil was on there.
BY MS. DEAN:
Q. In terms of this project between '71 and '75 – sorry – '74 –
A. '75.
Q. '75. Thank you. Have you done any research on the documents that are available to Covil to determine anything about the extent or nature of that, what products they were putting in, for instance, in '71, or taking out?
A. No, none at all.
Q. Okay. Any reason –
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. – to dispute Daniel's records about Covil's involvement in this project?
A. Pardon?
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Any reason to dispute Daniel's records about Covil's involvement in this project?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 270

MR. RHENEY: Object to the form.
THE WITNESS: No. I'm just not familiar with it. It's one of those job sites that I'm not familiar with.
BY MS. DEAN:
Q. And given your background, I guess I should just ask more broadly, for Covil, as a company, whether, as you sit here today, you have any basis to dispute Daniel's records about Covil's involvement at that location?
MR. RHENEY: Object to the form.
THE WITNESS: No.
BY MS. DEAN:
Q. I think that's all I wanted to ask you about that.
The next document I want to ask you about, and I apologize a little for jumping around, but I call them "orphan documents," that for one reason or another didn't get referenced. And I want to make sure I didn't miss anything.
I'm going to hand you what we will mark as Exhibit 25. And it says "The Employee Handbook" and indicates it's "For the Employees of Covil Corporation, Volume II," and dated 1977.
(Plaintiff's Exhibit No. 25, The Employee Handbook,

Page 271

was marked)
BY MS. DEAN:
Q. Do you see that on the front?
A. I do.
Q. Do you know where Volume I is at?
A. No. I have no idea. I'm surprised this one turned up.
Q. We had looked at, earlier today, a list that was attached to Palmer Covil's deposition of people, as of 1977, that had filed lawsuits. Do you recall that? It was a two-page typed list.
A. Yes.
Q. This is the exact time frame. It's in 1977, dated on the front, Exhibit 25. Right?
A. Got it.
Q. And it says it's an Employee Handbook, and it has an entire section on Safety, section X. Right?
A. I don't see anything on safety.
MR. RHENEY: 78 and 93.
THE WITNESS: 93?
MR. RHENEY: Uh-huh.
WITNESS CONTINUES:
A. Okay. Yes, I see the Safety part.
Q. Take a moment to look at that and just

Page 272

confirm that it literally doesn't, indirectly or directly, mention anything about asbestos and the health hazards associated with asbestos.
MR. RHENEY: Object to the form.
THE WITNESS: No, it says nothing about asbestos.
BY MS. DEAN:
Q. I don't want to recount everything we know from the past president's deposition; but broadly, there was noise from unions, he was involved with trainer associations, he concretely knew about asbestosis. And this is all in the '60s. Right?
MR. RHENEY: Object to the form.
THE WITNESS: According to his deposition, yes.
BY MS. DEAN:
Q. By the '70s, and well before '77, OSHA had came out. And we even looked at that together as Exhibit 7. Do you recall that?
A. Yes, I do.
Q. By '77, we have a list that literally expands more than one page of people in the most personal way, "I worked for you and I think I'm hurt," that filed claims. And they are listed out.

Page 273

Do you recall that?
MR. RHENEY: Object to the form.
THE WITNESS: Yes, I recall that.
BY MS. DEAN:
Q. And still by that time frame where there is not just federal regulations and noise and conferences about it, but there is a personal question of Covil specifically, The Employee Handbook, in the section about Safety, doesn't mention anything about the health hazards of asbestos or what you need to do to avoid them.
MR. RHENEY: Object to the form, argumentative.
BY MS. DEAN:
Q. Fair?
MR. RHENEY: Same objection.
THE WITNESS: What was the question?
BY MS. DEAN:
Q. Even by 1977, when they know about the health hazards of asbestos, there is federal regulations on it and they have their own personal complaints about it, there is not anything about the hazards of asbestos or what the people who work with or around it need to do to protect themselves from it. True?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 274

MR. RHENEY: Object to the form.
THE WITNESS: It doesn't – I have no idea who made this up or printed it or published it.
BY MS. DEAN:
Q. We do know, from the documents Covil gave me here, that it is for the employees of Covil. Right?
A. Right.
Q. And my representation that there is no information about asbestos health hazards is accurate, based on your review?
A. No, there is not.
Q. Huh?
A. What did you say? No, there is not?
Q. There is not anything in there saying –
A. No, there is not.
Q. – "hey, asbestos causes diseases"?
A. Right.
Q. And there is nothing in there that says here are the steps that you need to take not to get sick or not to get your family sick?
A. None of that is in there.
Q. If you turn to the fourth page of the – it shows page number four, and it's Bates number 2882, there is a section that just says:

Page 275

"We're Growing With The Industry."
Do you see that?
A. I do.
Q. It says: "Our success is due to a number of key factors. We keep abreast of technological advances."
Do you see that?
A. I do.
Q. It also says, in the next paragraph, that "Covil directs open-shop insulation operations across the entire Southeast."
Do you see that?
A. I do.
Q. And then it talks about the various branch offices that you told us about in Wilson, North Carolina; Albany, Georgia; Columbia, South Carolina, and Greensboro. Correct?
A. Right.
Q. Is the information reported here accurate, based on your knowledge?
A. It is.
Q. Okay. That's all I wanted to ask you about that.
A. However, this was printed in 1977 when we had no material with asbestos in it.

Page 276

MS. DEAN: I will object to the nonresponsive portions, and in the event that a court doesn't agree.
BY MS. DEAN:
Q. Have you made any reference, either from your suppliers where you were the distributor, or seen any indication, in your own records, that there was an active decision not to use asbestos in any form by '77? In other words, outside of your father's beliefs that were referenced in those depositions –
A. No.
Q. – do you have any basis for that?
A. No.
(Plaintiff's Exhibit No. 33, Childers Products Company Invoice, was marked)
BY MS. DEAN:
Q. I'm going to just mark as Exhibit 33 the Childers document where I found out that they were a manufacturer of metal jacketings, coatings, adhesives and sealants, but not ask any questions about it.
A. Okay.
Q. You had already explained that to me, so I'm just marking this, really, for reference.

Page 277

I want to hand you what we are going to mark –
MR. RHENEY: I'm sorry. What is that exhibit number?
THE WITNESS: Exhibit No. –
MS. DEAN: The last was 33.
THE WITNESS: 33.
MR. RHENEY: Thank you.
(Plaintiff's Exhibit No. 42, Index - Safety Section, was marked)
BY MS. DEAN:
Q. And then I'm going to hand you what we have marked as 42. This is a different safety document that has an Index that says "Safety Section." And this is where I saw that Safety Checklist. I wanted to give you a moment to review this and confirm whether it be the Safety Checklist procedures for safety in the Construction Division, or anywhere else in here, that there is nothing that describes for the employees or workers for Covil anything about the hazards of asbestos or what an individual needs to do in order to protect themselves from those hazards.
MR. RHENEY: Object to the form.
MS. DEAN: Is that based on compound?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 278

Do I need to break them up, or is it okay otherwise?
MR. RHENEY: Well, compound was the main thing I was thinking of there.
MS. DEAN: Then, I will – yeah, I will break it up.
BY MS. DEAN:
Q. In this document marked as Exhibit 42 that says "Safety Section," is there anything that references the hazards of asbestos that you could find?
A. I see nothing in there that states about asbestos, but it does get into x-rays and dust and fibers.
Q. In terms of explaining to anyone why x-rays are needed or the particular health hazards associated with that dust, is there anything that is explained by Covil in the safety document?
A. No.
Q. In terms of what efforts needed to be taken to protect yourself or your family from dust that contains asbestos, is there any reference to what needs to be done?
A. It talks about respirators being supplied.
Q. Okay. Anything else?

Page 279

A. Not that I can see.
Q. And you're aware that a respirator, if worn properly, can protect the person wearing it if it's the right respirator and it fits right, but not the person who might be interacting with the clothes of the wearer?
MR. RHENEY: Object to the form, speculation.
THE WITNESS: Well, that's – that's only for the wearer to know, you know, whether it fits right or whether it's the proper respirator for the job, whatever.
BY MS. DEAN:
Q. My question was probably terrible, so I'm going to try again. A respirator, if it fits right and if it has the right cartridges in it, can protect the person using it from breathing in toxic dust. Right? That's the point of a respirator.
A. That is.
Q. But even if you have the perfect respirator on and are wearing it right, that doesn't protect you from getting the dust on your clothes and bringing it home to your family. Right?
MR. RHENEY: Object to the form.
BY MS. DEAN:

Page 280

Q. You would need to be doing something else.
MR. RHENEY: I'm sorry. I didn't mean to interrupt. Object to the form.
THE WITNESS: It could be any type of dust, not necessarily asbestos fibers.
BY MS. DEAN:
Q. And my point is, the respirator keeps you from breathing in the dust. It doesn't keep you from getting it all over your clothes.
MR. RHENEY: Object to –
THE WITNESS: If it's the proper respirator.
MR. RHENEY: Object to the form.
BY MS. DEAN:
Q. Right. If it's the proper respirator, it keeps you from breathing it in. But my point is it doesn't have anything to do with keeping the dust from being all over –
A. The respirator does not, no.
Q. Did we, in going through all those locations, mark all of your notes? I'm not sure if I missed anything.
A. I believe we covered all of it.
Q. I know we covered it, but did we – are

Page 281

they all – do we have an exhibit sticker on all of them?
A. On my – not on my notes.
Q. Can we mark the remainder as Exhibit 49, either the notes or if you prefer to keep your originals, a copy of them?
A. We've got 47 on that one.
Q. 47 we, I think, attached for the Howe stuff. 48 –
A. Yes. This is Childers. We don't have an exhibit on it.
Q. Okay. So what I'm going to do with what you just handed me is – the Childers, is attach this to 48, because they both have to do with the Smith case, and staple them together, if that's okay.
A. Okay.
Q. And then was there anything – whether they be handwritten or typed, anything else that I didn't get?
A. No. This is just – my notes scribbled on here of various different things.
Q. Okay. Can we copy or use the originals, depending on your preference, the rest of those, as Exhibit 49?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 282

A. There's nothing we hadn't already talked about.
Q. Huh?
A. There's nothing we hadn't already talked about.
Q. I know. But it's just to have it as part of the record, as opposed to going through it and asking questions.
A. We can. Do you want to copy it or just exhibit it?
Q. Some people want to keep their originals; some people are okay getting a copy back. That's really y'all's call.
MR. RHENEY: We will make – you keep the original, and I'll keep them as a copy.
THE WITNESS: Yeah, I will keep these.
MS. DEAN: Okay. We will mark those as Exhibit 49.
(Plaintiff's Exhibit No. 49, Handwritten Notes of James Covil, was marked)
BY MS. DEAN:
Q. Are you aware, on behalf of Covil, what experts Covil is relying on in this litigation?
A. What experts?
Q. Uh-huh.

Page 283

A. I'm not.
Q. Did Covil do anything to vet or learn about the experts, to see if they think they are legit or not, anything like that?
MR. RHENEY: Object to the form, relevance.
THE WITNESS: Everybody that was involved in it was discussed with me at some point in time.
BY MS. DEAN:
Q. Are you familiar with the name of any of those experts?
A. No, not right offhand.
Q. One person in particular, I just want to see if the name rings a bell, is Victor Rockly.
A. I don't know.
MS. DEAN: Then I think this is probably a decent stopping point.
I would like to state, for the record, that Exhibit 26, 27, 34 and 37 have not been marked and will not be marked. There should be, however, exhibits between 1 and 49. I would like to have a chance just to, especially since we are changing court reporters, verify that, for sure. Although Exhibit 49 we are going to get a copy of.

Page 284

Exhibits 4, 6, 8 and 12 have not been marked, but I suspect will be marked tomorrow. So I think unless anyone else disagrees, that this might be a good chance to go off the record, verify that, and then adjourn for the day?
MR. RHENEY: Sure.
THE VIDEOGRAPHER: This then completes the 30(b)(6) deposition of the Covil Corporation and James Covil, Volume 1. Going off the record at 1800 hours and 2 minutes.
(The deposition was adjourned at 6:02 p.m.)

Page 285

SIGNATURE OF DEPONENT
DEPONENT: JAMES P. COVIL
DEPOSITION DATE: JANUARY 7, 2018
REPORTER: ELAINE L. GROVE-DEFREITAS
CASE CAPTION: TIMOTHY W. HOWE
vs.
AIR & LIQUID SYSTEMS, ET AL
CASE CAPTION: ROXANNE FALLS
vs.
CBS CORPORATION, ET AL
CASE CAPTION: JAMES C. SIZEMORE
vs.
BOWATER PAPER MILL, ET AL

(Please return both Signature Of Deponent pages)
I, the undersigned, JAMES P. COVIL, do hereby certify that I have read the foregoing deposition and find it to be a true and accurate transcription of my testimony, with the following corrections, if any:

PAGE	LINE	CHANGE	REASON

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Page 286

SIGNATURE OF DEPONENT
DEPOSITION DATE: JANUARY 7, 2018
REPORTER: ELAINE L. GROVE-DEFREITAS
CASE CAPTION: TIMOTHY W. HOWE
vs.
AIR & LIQUID SYSTEMS, ET AL
CASE CAPTION: ROXANNE FALLS
vs.
CBS CORPORATION, ET AL
CASE CAPTION: JAMES C. SIZEMORE
vs.
BOWATER PAPER MILL, ET AL

PAGE	LINE	CHANGE	REASON

_____
JAMES P. COVIL DATE

I, Elaine L. Grove-DeFreitas, Notary Public for the State of South Carolina at Large, do hereby certify that the deponent was advised of his or her right to read and sign said deposition, both verbally and in writing. If the deponent fails to execute and return foregoing Signature Of Deponent pages within the thirty (30) days allowed pursuant to the Rules of Civil Procedure, the original transcript may be filed with the court.

_____
ELAINE L. GROVE-DEFREITAS
Certified Shorthand Reporter
My Commission Expires 6/25/2020

Page 287

CERTIFICATE OF REPORTER

I, Elaine L. Grove-DeFreitas, Certified Shorthand Reporter and Notary Public for the State of South Carolina at large, do hereby certify that the foregoing transcript is a true, accurate and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

WITNESS MY HAND, I have hereunto affixed my official seal this 13th day of February 2018 at Spartanburg County, South Carolina.

_____
ELAINE L. GROVE-DEFREITAS
Certified Shorthand Reporter
My Commission Expires 6/25/2020

EXHIBIT 2

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

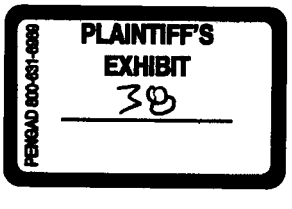
COVIL INSULATION COMPANY

GREENVILLE, SOUTH CAROLINA

7-59.06 A Share

ACCOUNTANTS' REPORT

For the Year Ended December 31, 1973



COV_022612

JAMES A. MARTIN
CERTIFIED PUBLIC ACCOUNTANT
15 GALLERY CENTRE
3110 WADE HAMPTON BOULEVARD
TAYLORS, SOUTH CAROLINA 29687

MEMBER
SOUTH CAROLINA ASSOCIATION OF
CERTIFIED PUBLIC ACCOUNTANTS

MEMBER
AMERICAN INSTITUTE OF
CERTIFIED PUBLIC ACCOUNTANTS

TELEPHONE
268-1997

President and Board of Directors
Covil Insulation Company
Greenville, South Carolina

We have examined the balance sheet of Covil Insulation Company, Greenville, South Carolina, as of December 31, 1973, and the related statements of income, retained earnings, and source and application of funds for the year then ended. Our examination was made in accordance with generally accepted auditing standards and, accordingly, included such tests of the accounting records and such other auditing procedures as were considered necessary in the circumstances.

This report is comprised of the following exhibits and schedules:

Exhibit A - Balance Sheet
Exhibit B - Statement of Retained Earnings
Exhibit C - Statement of Income
Exhibit D - Source and Application of Funds
Exhibit E - Notes to Financial Statements
Schedule 1 - Schedule of Other Direct Costs
Schedule 2 - Schedule of Operating Expenses

In our opinion, subject to the matters mentioned in the notes to financial statements, the above mentioned statements present fairly the financial position of Covil Insulation Company, Greenville, South Carolina, at December 31, 1973, and the results of its operations and the source and application of its funds for the year then ended in conformity with generally accepted accounting principles consistently applied.

Greenville, South Carolina
March 12, 1974

James A. Martin

COV_022613

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Exhibit A

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
BALANCE SHEET
December 31, 1973

ASSETS

CURRENT ASSETS			
Cash		$ 202,786	
A/c Receivable - Trade		1,498,267	
- Unbilled		292,220	
- Officers and Employees		47,248	
Notes Receivable - Other		32,878	
Inventory - at cost		680,256	
Prepaid Income Taxes		43,234	$2,796,889
PROPERTY AND EQUIPMENT - Partly Pledged			
	Cost	Accumulated Depreciation	
Autos and Trucks	$104,283	77,102	
Furniture and Fixtures	44,818	19,694	
Tools and Equipment	69,998	31,747	
Shop Equipment	54,472	18,171	
Warehouse Equipment	1,733	1,492	
Leasehold Improvements	14,748	8,048	
	290,052	156,254	133,798
OTHER ASSETS			
Investments - at cost		10,100	
Deposits		105	10,205
			$2,940,892

LIABILITIES AND STOCKHOLDERS' EQUITY

CURRENT LIABILITIES		
Notes Payable - Bank	$ 464,625	
Accounts Payable	922,251	
Accrued Expenses	246,799	
Accrued Taxes - Other	71,884	
Estimated Income Taxes Payable	62,271	$1,767,830
NON-CURRENT LIABILITIES		
Notes Payable - Bank		7,722
		1,775,552
STOCKHOLDERS' EQUITY		
Capital Stock, Common, $100 Par Value		
Authorized 5,000 Shares; Issued 4,986 Shares	498,600	
Paid-In Surplus	3,313	
Retained Earnings - Exhibit B	783,924	
	1,285,837	
Less Treasury Stock - At cost (503 Shares)	120,497	1,165,340
		$2,940,892

Notes to financial statements contained in this report are an integral part of the financial statements and should be read in conjunction therewith.

COV_022614

Exhibit B

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
STATEMENT OF RETAINED EARNINGS
December 31, 1973

BALANCE, January 1, 1973	$699,224
ADD:	
Income for Year - Exhibit C	85,187
	784,411
DEDUCT:	
Income Tax Adjustment - Prior Year	487
BALANCE, December 31, 1973 - Exhibit A	$783,924

Notes to financial statements in this report are an integral part of the financial statements and should be read in conjunction therewith.

COV_022615

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
STATEMENT OF INCOME
For the Years Ended December 31, 1973 and 1972

	1973	1972
INCOME		
Contract Sales	$ 8,062,708	$ 7,094,402
Material Sales	4,057,457	4,725,537
	12,120,165	11,819,939
COST OF SALES		
Materials Used	5,351,876	5,313,907
Labor - Contract Jobs	2,933,606	3,086,587
Other Direct Costs - Schedule 1	1,653,925	1,287,620
	9,939,407	9,688,114
GROSS PROFIT	2,180,758	2,131,825
OPERATING EXPENSES - Schedule 2		
Selling Expenses	243,771	398,359
General & Administrative Expenses	1,789,529	1,728,547
	2,033,300	2,126,906
NET OPERATING INCOME - Note 2	147,458	4,919
OTHER ITEMS		
Loss on Sale of Assets		(369)
INCOME BEFORE INCOME TAXES	147,458	4,550
PROVISION FOR INCOME TAXES		
State	8,467	323
Federal	53,804	
	62,271	323
NET INCOME AFTER INCOME TAXES - Exhibit B	$ 85,187	$ 4,227

Notes to financial statements contained in this report are an integral part of the financial statements and should be read in conjunction therewith.

COV_022616

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Exhibit D

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
SOURCE AND APPLICATION OF FUNDS
For the Year Ended December 31, 1973

SOURCE OF FUNDS		
Net Income - Exhibit C	$ 85,187	
Depreciation and Amortization	66,306	
Write-off of Deferred Charges	106,700	$ 258,193
APPLICATION OF FUNDS		
Additions to Plant and Equipment	99,183	
Purchase of Treasury Stock	118,391	
Decrease in Non-Current Liabilities	2,874	
Increase in Investments	1,000	
Income Tax Adjustments - Prior Years	487	221,935
INCREASE IN WORKING CAPITAL (See below)		$ 36,258

SCHEDULE OF WORKING CAPITAL CHANGES

	12/31/73	12/31/72	Net Change
Cash	$ 202,786	$ 349,064	$ (146,278)
Accounts Receivable	1,837,735	1,796,320	41,415
Notes Receivable - Other	32,878	37,443	(4,565)
Inventory	680,256	669,873	10,383
Prepaid Income Taxes	43,234	43,777	(543)
	2,796,889	2,896,477	(99,588)
Notes Payable - Bank	464,625	466,093	(1,468)
Accounts Payable	922,251	1,193,655	(271,404)
Accrued Expenses	246,799	170,598	76,201
Accrued Taxes - Other	71,884	73,007	(1,123)
Estimated Income Taxes Payable	62,271	323	61,948
Total Current Liabilities	1,767,830	1,903,676	(135,846)
Working Capital	$1,029,059	$ 992,801	$ 36,258

COV_022617

Exhibit E

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
NOTES TO FINANCIAL STATEMENTS
DECEMBER 31, 1973

General: The State and Federal taxing authorities have reviewed the Corporation's income tax returns through December 31, 1969. The Internal Revenue Service has proposed deficiencies of approximately $98,000, but company council believes that eventual settlement will be made for $60,000 to $70,000. No additional taxes have yet been assessed by South Carolina.

Deferred charges of $106,700 from 1972 were written off during the current year.

In May, 1973, the Corporation experienced a fire which destroyed the bulk of its Greenville inventory, its leased building, and a portion of its equipment. The loss was substantially covered by insurance, therefore no loss or gain is shown on the financial statements.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
SCHEDULE OF DIRECT COSTS
For the Years Ended December 31, 1973 and 1972

OTHER DIRECT COSTS	1973	1972
Sub-Contracts	$ 922,442	$ 656,577
Auto and Truck Expenses	19,589	15,791
Small Tools and Equipment Repairs	74,833	45,470
Depreciation - Vehicles	9,352	14,146
- Equipment	19,899	18,027
Equipment Rental	38,782	25,618
Board and Travel	85,191	96,391
Insurance	74,406	117,334
Payroll Taxes	182,232	157,733
Miscellaneous Job Expense	4,847	8,653
Freight	46,674	61,308
Performance Bonds	1,331	405
Truck Leasing	525	1,260
Sales Tax	65,441	40,317
Outside Labor	5,237	2,140
Pension Fund	22,550	26,450
Health and Welfare	63,654	
Rent or Storage	16,940	
	$1,653,925	$1,287,620

Notes to financial statements contained in this report are an integral part of the financial statements and should be read in conjunction therewith.

COV_022619

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

COVIL INSULATION COMPANY
GREENVILLE, SOUTH CAROLINA
SCHEDULE OF OPERATING EXPENSES
For the Years Ended December 31, 1973 and 1972

	1973	1972
SELLING EXPENSES		
Estimators' Salaries	$ 149,233	$ 198,393
Office Salaries		29,925
Salesmen's Salaries	56,261	95,927
Travel and Promotion	18,575	34,891
Insurance	1,023	7,023
Payroll Taxes	4,149	7,190
Advertising	1,233	4,968
Leasing	9,582	15,037
Conventions	15	356
Depreciation	2,148	1,902
Office and Miscellaneous	1,011	2,516
Commissions	541	231
	$ 243,771	$ 398,359
GENERAL AND ADMINISTRATIVE EXPENSES		
Executive Salaries	105,527	125,048
Managers' Salaries	94,848	77,970
Other Salaries	594,223	579,793
Insurance	30,916	49,825
Payroll Taxes	56,851	46,921
Rent	67,899	52,147
Building Maintenance	9,881	8,905
Interest	42,195	24,144
Office Expense and Supplies	69,495	55,509
Telephone	86,717	84,466
Heat, Lights and Water	13,715	17,281
Depreciation	31,974	28,593
Small Tools and Repairs	14,421	21,578
Taxes and Licenses	41,117	16,275
Bad Debts	19,777	21,589
Contribution	1,595	1,546
Professional Fees	19,365	32,964
Training and Education	3,178	
Travel	69,008	78,530
Dues and Subscriptions	13,970	9,767
Leasehold Amortization	2,933	2,538
Advertising	18,544	22,549
Leasing Equipment	11,767	21,493
Leasing Vehicles	36,123	41,916
Uniform Rental	988	1,900
Truck Expense	156,566	159,170
Employees' Trust Fund	23,453	23,748
Janitorial Supplies	6,015	7,735
Control Systems Analysis	122,700	106,700
Shows and Meetings	2,739	5,110
Security Services	18,357	
Miscellaneous	2,672	2,837
Total - Exhibit C	$1,789,529	$1,728,547

COV_022620

EXHIBIT 3

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A—ORIGINAL INVOICE

H. K. PORTER COMPANY, INC.

THERMOID DIVISION

Asbestos Textile Products CHARLOTTE WORKS • CHARLOTTE, NORTH CAROLINA

① PLEASE REMIT TO:
H. K. PORTER COMPANY, INC.
THERMOID DIVISION
P. O. Box 8711, Church St. Station
New York, N. Y. 10008

① CUSTOMER'S ORDER NO. AND DATE	② OUR ORDER NO. AND DATE	③ TERMS 1% 10TH PROX.
10711 5/30/73	47615 5/31/73	

F. O. B. CHARLOTTE, N. C.
F/A 500# OR MORE

SOLD TO ⑤
COVIL INSULATION COMPANY
P.O. BOX 1804
GREENVILLE, S. C. 29602

71336

SHIP TO ⑥
COVIL INSULATION COMPANY
C/O DUKE POWER COMPANY
F. M. KENNERLY PROJECT
WALNUT COVE, N. C.

ROUTE
JOHNSON MOTOR LINES

⑦ WE EXPECT TO SHIP 5/31/73

⑧ SHIPPED FROM 03

85-05

PPD.	COL.	⑨ INV. LOC.	⑩ CUSTOMER NO.	⑪ TERR.	⑫ STATE	⑬ SLS. DIST.	⑭ SERVICE NO.	⑮ DATE
	X	03	20797-00	304	32		16094	5-31-73

NO. PKGS.	CLASSIFICATION	SHIPPING WEIGHT	RATE	NO. PKGS.	CLASSIFICATION	SHIPPING WEIGHT	RATE
3	ROLLS ASBESTOS CLOTH	398#			CASES ASBESTOS PACKING		
	BALES " FABRIC				BAGS "		
	CASES " "				PALLETS "		
	CASES " YARN						

PRICES SHOWN ARE IN KEEPING WITH THE
OFFICE OF PRICE COMMISSION "PA CONTROL
NUMBER 6400-1-72, DATED APRIL 6, 1972"

④ ORDERED	UNIT	⑤ DESCRIPTION	⑥ SHIPPED	⑦ PRICE	⑧ DISCOUNT	⑨ TOTAL	⑩ QUAN. DUE
		69-29-01240					
3 ROLLS	154 YDS	#2225 GRADE AAA PLAIN ASBESTOS CLOTH - 40" X 50 YDS	392#	$2.78 PER LB	10%	$980.78	COMP

DATE REC'D
CHECKED BY
DR. ACCT CR. ACCT
P. O. NO.
EXT. CK. POSTED

DUE DATE 7/10
DISCOUNT 9.81

Seller represents that with respect to the production of the articles and/or the performance of the services covered by this invoice, it has fully complied with Section 12 (a) of the Fair Labor Standards Act of 1938, as amended.

"CONTINUING GUARANTY UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT FILED WITH THE FEDERAL TRADE COMMISSION."

"Acceptance and sale subject to provisions on the reverse side hereof."

"Acceptance and sale subject to provisions on the reverse side hereof."

ports by a carrier by water, the law requires that the bill of lading shall state whether it is carrier's or shipper's weight."
NOTE—Where the rate is dependent on value, shippers are required to state specifically in writing the agreed or declared value of the property.
The agreed or declared value of the property is hereby specifically stated by the shipper to be not exceeding

Per

The above boxes used for this shipment

H. K. PORTER CO., INC. Shipper, Per
THERMOID DIV. CHARLOTTE WORKS
Permanent postoffice address of shipper, P. O. BOX 10516, CHARLOTTE 1, N. C.

1055 5-31

PLAINTIFF'S EXHIBIT
32

PENGAD 800-631-6989

COV_016858

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT 4

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ANN FINCH, Individually and as Executrix of the Estate of Franklin Delenor Finch,

Plaintiff,

vs. CASE NO. 1:16-cv-01077

BASF CATALYSTS LLC, sued individually and as successor-in-interest to ENGELHARD, PITY REALTY LTC, and EASTERN MAGNESIA TALC CO., et al.

Defendant.

DEPOSITION OF: JAMES P. COVIL

DATE: March 27, 2018

TIME: 10:00 a.m.

LOCATION: GALLIVAN WHITE & BOYD P.A.
55 Beattie Place
Suite 1200
Greenville, South Carolina

TAKEN BY: Counsel for the Plaintiff

REPORTED BY: JENNA B. PARSONS, Court Reporter

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

APPEARANCES OF COUNSEL:

ATTORNEYS FOR PLAINTIFF
ANN FINCH, Individually and as Executrix of the Estate of Franklin Delenor Finch:

DEAN OMAR & BRANHAM, LLP
BY: SABRINA STONE, via Telephone
302 N. Market Street
Suite 300
Dallas, Texas 75202
(214) 722-5990
sstone@dobllp.com

DEAN OMAR & BRANHAM, LLP
BY: MARK J. BUJA
302 N. Market Street
Suite 300
Dallas, Texas 75202
(214) 722-5990
mbuha@dobllp.com

ATTORNEYS FOR DEFENDANT
COVIL CORPORATION:

Gallivan White & Boyd, PA
BY: T. DAVID RHENEY
55 Beattie Place
Suite 1200
Greenville, SC 29601
(864) 271-9580
drheney@gwblawfirm.com

ATTORNEYS FOR THE DEFENDANT
MCNEIL & NRM:

THE VAN WINKLE LAW FIRM
BY: JONATHAN H. DUNLAP
11 North Market Street
Asheville, NC 28801
(828) 771-2535
dunlap@vwlawfirm.com

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(PLF. EXH. 14, Covil Insulation Company Invoice, was marked for identification.)

THE WITNESS: Okay.

BY MS. STONE:

Q. And this is another Covil invoice?

A. Yes.

Q. In 1974?

A. Yes.

Q. And it says shipped via OT. What does that mean?

A. Our truck.

Q. Okay. So this was actually sent from Covil to Firestone?

A. Yes.

Q. And it shows 1663.74 feet of Thermobestos being sent to Firestone?

A. No. It shows 710 ordered, 711 feet shipped, and that's the amount of money you're reading -- 1,663 --

Q. Okay --

A. -- that's the price.

Q. -- thank you. I appreciate the correction. So 710 feet then is being shipped?

A. Yes.

Q. I'm sorry. 711 is being shipped?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Right.
Q. Okay. Give me a second. I'm sorry for the delay. Okay. I would love for you to turn with me to what we have Bates numbered 221 through 231.
BUHA: We're at 15?
MR. RHENEY: Yes.
MS. STONE: And that would be Exhibit 15, correct?
BUHA: Yep.
(PLF. EXH. 15, List of Customers/Jobs, was marked for identification.)
THE WITNESS: Yes. What pages again?
BY MS. STONE:
Q. 221 to 231.
A. Okay.
Q. Have you looked at these documents at all?
A. Yes, I'm pretty sure I have.
Q. Do you have any idea what they are?
A. List of customers and jobs that were done, suppliers -- or vendors rather.
Q. To Firestone, correct?
A. Yes.
MR. RHENEY: Object to the form.

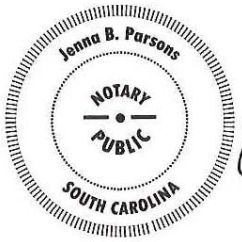
ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

CERTIFICATE OF REPORTER

I, Jenna B. Parsons, Court Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 30th day of March, 2018 at Greenville, Greenville County, South Carolina.



Jenna B. Parsons, Court Reporter
My Commission expires
September 29, 2026

EXHIBIT 5

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

DISTRIBUTORS - CONTRACTORS OF *Industrial Insulation*
AND ACCESSORIES

COVIL INSULATION COMPANY

PLEASE REMIT TO:
COVIL INSULATION COMPANY
P.O. Box 1804
GREENVILLE, S.C. 29602

TERMS: 1% 10TH PROX.
NET 30TH PROX.

AMOUNT 30 DAYS PAST DUE SUBJECT TO 1% SERVICE CHARGE.

AREA 803 / 246-1521 GREENVILLE, S.C.	1
AREA 919 / 275-2894 GREENSBORO, N.C.	2
AREA 919 / 237-5486 WILSON, N.C.	3
AREA 404 / 722-2738 AUGUSTA, GA.	4
AREA 912 / 439-8824 ALBANY, GA.	6

INVOICE No. 08299

INVOICE DATE 2-7-74
CUST. ORDER NO. 303-4081
DATE SHIPPED 2-5-74
SHIPPED VIA OT
F.O.B.
SALESMAN
SALES ORDER NO. 17348
BRANCH OFFICE XX 2
JOB NO.
SHIPPED FROM 1

SOLD TO
Firestone Tire & Rubber
Box 1139
Wilson, NC
Att: Mr. D. L. Wilhili

SHIP TO
c/o Yeargin Const.
Wilson, NC

RECEIVED
FEB 9 1974
D. L. Wilhili

ITEM NO.	ORDERED	SHIPPED	BACK ORDERED	DESCRIPTION	PRICE	UNIT	AMOUNT
1	692	692		10 x 1½ Kaylo PC	2.11	ft	1460.12
2	710	711		12 x 1½ Thermobestos	2.34	ft	1663.74
				Plus 10% Warehousing charge			312.39

ORIGINAL CONTRACT OR P.O. AMOUNT $60,438.93
ADD CHANGE ORDERS OR P.O.C.'s —
TOTAL CONTRACTED AMOUNT $60,438.93

LESS PREVIOUS REQUEST PAYMENTS THRU NOS. 7 ~~7926.02~~
BALANCE $52512.91

LESS THIS PAYMENT REQUEST NO. 8 3436.25
BALANCE LEFT ON CONTRACT $49,076.66

DUE DATE 3/31
M.O. ACCT. NO. 303-3017-32-01 45-05 $1720.42 ~~884.56~~ 834.22
303-3024-32-01 ~~884.22~~ 881.56

~~3436.25~~ SUB-TOTAL	~~34.36~~ DISCOUNT ALLOWED IF PAID BY 10th OF MONTH	% SALES TAX	SALES TAX	COUNTY	CODE	P/P FREIGHT	3436.25 INVOICE TOTAL

DUPLICATE INVOICE

PENDAD 800-631-6989
PLAINTIFF'S EXHIBIT
14 Covil
3-27-18

FINCH 000633

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT 6

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA — IN THE COURT OF COMMON PLEAS

COUNTY OF GREENVILLE — CASE NO. 99-CP-23-0588

Terry Douglas Jaynes, et al.,

Plaintiffs,

vs.

ACandS, Inc., et al.,

Defendants.

DEPOSITION OF MACHEN LEE CARPENTER

DATE TAKEN: May 27, 2004

TIME BEGAN: 10:16 a.m.

TIME ENDED: 11:53 a.m.

LOCATION: Haynsworth Sinkler Boyd, P.A.
75 Beattie Place
Greenville, South Carolina

REPORTED BY: Sheila B. Smith, CVR-CM
Certified Verbatim Reporter
Certificate of Merit
Notary Public for South Carolina

COPY

APPEARANCES:

Christopher D. Mauriello, Esquire
Mauriello Law Offices
19810 W. Catawba Avenue, Suite E
Cornelius, North Carolina 28031

.....On behalf of the Plaintiffs

Stephanie Flynn, Esquire
Gallivan, White & Boyd, P.A.
One Liberty Square
55 Beattie Place, Suite 1200
Greenville, South Carolina 29601

.....On behalf of Covil Corporation; Guard Line, Inc.

STIPULATIONS: The within deposition was taken pursuant to the South Carolina Rules of Civil Procedure.

WAIVER: Examination and reading of the deposition are waived by the witness and by the parties.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

INDEX

	PAGE
Examination by Ms. Flynn.....	4
Examination by Mr. Mauriello.....	75
Reexamination by Ms. Flyn.....	114
Certificate.....	129
Exhibits: (Attached to deposition)	
Exhibit No. 1 [Work Log Entry].....	76
Exhibit No. 2 [Covilite Document].....	81
Exhibit No. 3 [Owens-Corning Invoice].....	85
Exhibit No. 4 [Yellow Pages Listing].....	86
Exhibit No. 5 [Covil Invoice].....	90
Exhibit No. 6 [Covil Invoice].....	90
Exhibit No. 7 [Covil Invoice].....	91
Exhibit No. 8 [Covil Invoice].....	95
Exhibit No. 9 [Group of Guy M. Beaty Invoices]..	100
Exhibit No. 10 [Duke Power Specification].....	101
Exhibit No. 11 [Duke Power Specification].....	104
Exhibit No. 12 [12/13/77 Letter].....	111

Academy.

Q. What year did you graduate?

A. '62.

Q. Did you receive any education following high school?

A. Yes, I did. I went in the Marine Corps for four years and attained quite a bit of electronic information in various parts of the Marine Corps.

Q. You had some electronic training?

A. Yes, ma'am. I was in combat helicopters and I basically did all the -- I did the electronic maintenance and upkeep of combat choppers.

Q. When did you get out of the Marine Corps?

A. I went in on Valentine's Day and got out on Valentine's Day.

Q. Valentine's Day of 1963?

A. Yes, ma'am.

Q. Then you stayed in for four years?

A. Yes, ma'am.

Q. Did you have an honorable discharge?

A. Yes, ma'am.

Q. What did you do after getting out of the Marine Corps?

A. I went to work at Covil Insulation, a/k/a Covil, within about a week.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. So that would have still been February of 1967?
A. Seven, yes, ma'am.
Q. And when you were hired by Covil, what did you hire on as, what position?
A. Well, I had a friend there that I grew up with. He was the warehouse foreman and he was wanting me to come to work there and more or less train me to take his place because he wanted to move on up into the estimating department of Covil. So that's basically why I wound up there. And as it turned out, that's exactly what happened. I basically took his place and he moved on.
Q. What was your friend's name?
A. Tony Junkin.
Q. How long did you work for Covil?
A. From '67 to '91.
Q. Did you retire?
A. No, ma'am. The company went bankrupt.
Q. Where did you go after you left Covil?
A. I spent ten months looking for a job. It was -- they were very, very, very bad times for jobs; took me ten months to find a job.
Q. And where did you go?
A. I went to work for a company called American Woodworks here in Greenville who are now owned by

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Leggett and Platt.

Q. How long did you work for them?

A. Still employed by them. I think I've been there a little over eleven years.

Q. And what do you do for them?

A. I've done a lot of things, but right now I'm inventory control manager.

Q. Going back to Covil -- we'll start there. You said when you hired on you had a friend who was the warehouse foreman and he wanted to move you into that position?

A. He wanted to train me to -- he wanted to see if I could be trained to eventually go into that position. I was really hired on -- the day I was hired on was as a warehouse helper. And then I moved from a warehouse helper to assistant warehouse foreman. And then, of course, from assistant warehouse foreman to warehouse foreman and that's when he moved.

Q. How long did you work as a warehouse helper?

A. As a warehouse helper?

Q. Yes.

A. I'd say all of this took place in way less than a year.

Q. So you moved up from warehouse helper to assistant

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

foreman to foreman in about a year's time?
A. Yes, ma'am, or even less, to be honest with you.
Q. Tell me what you did during this year period.
A. I'll give you an example. The first job -- the first day I reported to work at Covil, the first job I was put on, along with others, is -- there was a railroad car sitting at one of the railroad doors that had a thousand 100-pound bags of raw asbestos cement out of Canada. And we unloaded those thousand hundred-pound bags and put them in our warehouse. Of course, in the process we busted 30, 40, which we would have to clean up, re-bag. Outside of that, I did receiving and shipping, loaded trucks, filled orders. When I was initially hired, it was predominantly on the receiving end. I worked more in receiving than I did in shipping, but I eventually moved into shipping as well because I was gaining the experience necessary to be a warehouse foreman.
Q. Did you remain in the position of warehouse foreman the entire time you were there or did you change positions?
A. No. I went from there to warehouse and shop foreman. We had a rather large fabrication shop. You want me to go on?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Yes, please.

A. I went from there to purchasing manager where I was over customer service. I was responsible for doing all the purchasing and I also still had the warehouse and fabrication shop, as well as buildings and grounds, tools and equipment underneath me. We later got into centralized purchasing where I would do the buying for all of our branches as well. From there, new owners took over Covil, and I eventually made my way back to warehouse manager. At some point in time after that, the company had to borrow a significant amount of money and I became a bonded security agent for two different companies. Technically I was no longer an employee of Covil Corporation at that time, technically, legally. But it was my warehouse, and my warehouse alone. I had the key. They couldn't get in. They couldn't get nothing out unless I signed for it. I did that for about two and a half years. Then the family, the kids of Palmer Covil, the founder, and an in-law, they got control of the company back and I moved into the position of vice president of operations, which involved all of our branches. The last year and a half or so that I spent at Covil, I was a

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

impressive operation using negative air enclosed -- completely 360 degrees enclosed. It was quite expensive, too, by the way.

Q. So this was a team of Covil employees that were going in and taking all the precautions and removing asbestos?

A. Absolutely. For example, in a school, the only way you could -- you had to be asbestos removal-certified before you could remove asbestos in any South Carolina school. We had insulated quite a few South Carolina schools. It was kind of ironic in a way in hindsight, not just schools but mega plants. What we put on one day, we started taking off another day because this stuff had to be taken off and asbestos-free products put in unless -- and there was only one unless -- unless it could have been -- it could be unequivocally encapsulated. If it could be unequivocally encapsulated, it did not have to be removed.

Q. Do you remember about when that fire occurred? I know you said early seventies. I just --

A. I want to say '74 or '75. I had a lot of fun at Covil over all those years.

Q. Where was the warehouse that burned? Where was that located?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. In Berea, Sulphur Springs Road.
Q. Was this the warehouse that supplied all products used by Covil or were there other warehouses?
A. Oh, we had ten to 12 other branches throughout the southeastern United States. I could try to name them if I could -- if you need it.
Q. Please.
A. We had one in Charlotte, North Carolina for a short period of time. We had a big one in Greensboro, North Carolina. We had a rather large one in Black Creek, North Carolina, which is right outside of Wilson. We had a -- for a short period of time, we had one in Knoxville, Tennessee. Of course, we had one in Greenville, South -- really, we had two in Greenville, South Carolina. We had corporate headquarters in Greenville and the Greenville branch located in Greenville, South Carolina. We had one in Columbia, South Carolina. We had one in Albany, Georgia. We had one in Montgomery, Alabama. We had one in Jacksonville, Florida. We had one in Columbia, South Carolina. I believe that's it.
Q. As a warehouse foreman and in your other positions, did you only have responsibility over one warehouse or multiple warehouses?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. When I was operations manager, I was responsible for all those warehouses to the degree I would tour each one of them at least once a month. I was also responsible for all clerical functions, all warehousing, all trucking, all shipping, all receiving, buildings and grounds, equipment, scheduling, purchasing. And like I say, I would generally visit each one of them at least once a month.

Q. What years were you operations manager?

A. Operations manager the last -- operations manager I'd say the last two and a half years prior to '91. I later became vice president of operations.

Q. Was that about the last two years or so?

A. Yes. I was operations manager for a short period of time and then became vice president of operations really for a short period of time, and then became a board of director as vice president of operations.

Q. As a member of the board of directors, you continued to maintain your position as vice president of operations for the company?

A. Absolutely, yes.

Q. You just served on the board as well?

A. That's correct, a board of five. There was two of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

way rather than taking the risk and the liability of selling to a client or installing it in a client's place of business.

Q. Do you know whether -- in the case of Covil, after the moratorium began, did they chose to swap out or do you know if they still took some asbestos-containing products and installed them in any particular plants?

A. After the moratorium, there was no more asbestos installing, period. I don't care how much you had sitting on your floor.

Q. And the warehouse fire, I think you mentioned, took some of it?

A. My guess is that it did, yes, that it took the balance of it because you got to remember this was over a period of years. I mean it wasn't months that we're talking about. It was years.

Q. The warehouse that burned to the ground, were the headquarters located at that particular site?

A. That was corporate headquarters, yes, ma'am. The Greenville branch was across the street. It's now Piper Roofing -- I mean it's now Huff Piping. We never missed a day's work. That's the honest truth. Daniels pulled trailers into our yard, hooked up power to telephone poles and phone

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

the sections that pertain to you. You don't want -- if you're a plumber, you want the plumbing blueprints. You could care less about the electrical. So you would just about have to go to Charlotte and -- to get the insulation package. As I look in this, there's obviously a lot involved other than insulation.

Q. Where would the invoices for the various Duke Power plants that were generated, such as some of the examples I showed you here, where would they be today?

A. Ashes.

Q. Is that because of the fire are you talking about or is that --

A. That would be my guess.

Q. Because of the fire or some other fire? I'm trying to find out there's any -- is there a repository of the information that --

A. No, that's not right. It wasn't -- the front office complex did not burn down. It was protected by a fire wall. We kept all of our documentation in a vault. Now where is it today? What is the limitation on the time frame in which you have to keep it? And I would say it would be seven years or less, so I'd say it's history.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

CERTIFICATE

I, the undersigned, Sheila B. Smith, Notary Public in and for the State of South Carolina, do hereby certify that the foregoing deposition was taken on the aforementioned date;

That the within deponent was sworn to tell the truth and that the foregoing is an accurate transcription of the testimony taken under oath;

That all exhibits entered herein are attached hereto (if requested by counsel) and made a part of this deposition.

I further certify that I am neither counsel nor solicitor to any of the parties in said suit, nor interested in the event of the cause.

In witness whereof, I have hereunto set my hand and seal this 14th day of June, 2004.

COPY

Sheila B. Smith, CVR-CM
Notary Public for South Carolina
My Commission Expires: 3/9/2014

(Seal)

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT 7

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA COUNTY OF YORK TIMOTHY W. HOWE, Individually and as Personal Representative of the Estate of WAYNE ERVIN HOWE, Deceased, and JEANETTE HOWE, Plaintiffs, v. AIR & LIQUID SYSTEMS CORP., et al., Defendants.	IN THE COURT OF COMMON PLEAS C.A. No. 2015-CP-46-3456 **DEFENDANT COVIL CORPORATION'S RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO ALL DEFENDANTS**

DEFENDANT COVIL CORPORATION'S RESPONSES TO PLAINTIFFS' FIRST SET OF INTERROGATORIES TO ALL DEFENDANTS

Pursuant to Rule 33(b) of the South Carolina Rules of Civil Procedure, and pursuant to the Master Discovery/Scheduling Order dated September 30, 2010, issued by the Honorable D. Garrison Hill, as Administrative Judge for asbestos litigation in the Circuit Courts for the State of South Carolina, the undersigned attorneys for Defendant Covil Corporation (hereinafter "Covil") hereby submit the following responses to Plaintiffs' First Set of Interrogatories All Defendants (Exhibit 1):

GENERAL OBJECTIONS

1. The answers and responses given herein are based only upon such information and documents which are presently available to and specifically known to Covil's counsel. The events which are the subject of this lawsuit occurred many years ago. Covil was dissolved as an entity in 1993 and is no longer an active company. Covil has no active employees, agents or officers. As a result, it is difficult if not impossible for counsel for Covil to retrieve or reconstruct the information requested in these Interrogatories. Additionally, Covil sustained a fire at its

Greenville, South Carolina headquarters and warehouse in 1973 and many of its records and job files were destroyed.

After Covil was dissolved in 1993, its remaining records as of that time were put in storage for safekeeping. Upon information and belief, in the late 1990's, one of the firms representing Plaintiff in this case copied all of Covil's then existing records, and that firm is believed to still be in possession of those copies. To the extent requested, the Covil records will again be produced for inspection. Nevertheless, Covil continues to investigate this matter and will supplement or amend its answers to these interrogatories in accordance with the South Carolina Rules of Civil Procedure if new or more accurate information becomes available or if errors are discovered.

2. Covil objects to these interrogatories to the extent they are overly broad, unduly burdensome, oppressive, vague, ambiguous, and not reasonably calculated to lead to the discovery of either relevant or admissible evidence.

3. Covil objects to the instructions and definitions set forth in Plaintiffs' First Set of Interrogatories to All Defendants to the extent they are inconsistent with the South Carolina Rules of Civil Procedure and to the extent they purport to instruct Covil on how to respond. Unless indicated to the contrary, Covil, in answering Plaintiffs' First Set of Interrogatories to All Defendants, has read the question employing the plain and ordinary meaning of the words used.

4. Covil further objects to the extent that any interrogatory can be construed as calling for the identification or production of any materials covered by the attorney-client privilege, the work-product doctrine, the self-critical analysis privilege or that which may be confidential pursuant to applicable statutes or regulations. In making these responses, Covil does not waive, and specifically preserves, its claims to privilege of any information requested that would be covered by these privileges or that is otherwise deemed confidential by law.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

5. Covil objects to these interrogatories on the grounds that they exceed the scope of discovery permitted under the South Carolina Rules of Civil Procedure, including but not limited to Rule 33, SCRCP, and to the extent the discovery seeks information about products sold, distributed and/or installed by Covil not connected in any way to Plaintiffs' claims herein.

The following responses are given without prejudice to Covil's right to produce evidence at trial as to any subsequently discovered fact or facts which Covil may later recall. Covil accordingly reserves its right to supplement and/or change any and all answers herein as additional facts are ascertained, analyses and contentions are made, and when legal research is completed. The answers contained herein are made in a good faith effort to supply as much factual information and as much specification of legal contentions as is presently known, but should in no way be to the prejudice of Covil in relation to further discovery, research, and analysis.

SPECIFIC RESPONSES TO INTERROGATORIES

1. Identify the registered name of the answering defendant as well as all prior names or predecessor entities by which the defendant has existed. For each give the current address and the state of incorporation and whether or not it is an active corporation.

ANSWER:

Covil objects to this Interrogatory on the grounds it seeks information which is publicly available and/or is a matter of public record and, therefore, is equally as accessible to Plaintiffs as it is to Covil. Subject to and without waiving this objection, Covil states that, upon information and belief, Palmer Covil started Covil Insulation in 1948. The business was incorporated on December 30, 1954, as Covil Insulation Company. Upon information and belief, the name of the corporation was changed to Covil Corporation in the mid-1960s. Covil was dissolved in 1993

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

and is no longer an active corporation. During the time it was operational, Covil Corporation was incorporated in the State of South Carolina.

2. Set forth the full and correct name, the principal place of business and the state and date of incorporation of the answering defendant.

ANSWER:

Covil objects to this Interrogatory on the grounds it seeks information which is publicly available and/or is a matter of public record and, therefore, which is equally as accessible to Plaintiff as it is to Covil. Subject to and without waiving this objection, Covil was incorporated in the State of South Carolina on December 30, 1954. Covil states it is not an active corporation, having been dissolved in 1993, and therefore it has no current principal place of business. Its former principal place of business was Greenville County, South Carolina.

3. Identify all divisions, subsidiaries or affiliated companies of the answering defendant.

ANSWER:

Covil objects to this Interrogatory on the grounds it seeks information which is publicly available and/or is a matter of public record and, therefore, which is equally as accessible to Plaintiff as it is to Covil. Subject to and without waiving this objection, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it purchased the assets of a company in Augusta, Georgia, called Industrial Insulation; Covil subsequently changed the name of that Augusta subsidiary to Industrial Associates. The exact date Covil purchased Industrial Insulation is unknown, but Covil believes it owned the business at least by 1962. Covil eventually discontinued the Industrial Associates business in Augusta but kept the name inactive.

Pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it purchased the assets of two operations—one in Jacksonville, Florida, and another in

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Birmingham, Alabama—from Keene Corporation in January 1976. Covil reactivated the Industrial Associates name and made the Jacksonville, Florida operation and the Birmingham, Alabama operation branches of Industrial Associates. Industrial Associates was a wholly-owned subsidiary of Covil.

Further, pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it purchased the equipment and assets of Sure-Fit Manufacturing Company, which was a company in Asheboro, North Carolina. Further, Covil acquired a small insulation contracting company called Derrick Insulation, in Columbia, around August 1976. In addition, Covil acquired Taylor Insulation, in Augusta, Georgia, sometime before August 1976.

Covil also had a subsidiary called Covil Residential Insulation, Inc.

4. For each entity or division listed in response to #3, state whether it ever has or presently engages in any phase or mining, manufacturing, sale, supply, distribution, or design of asbestos or asbestos-containing products.

ANSWER:

Covil objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome in location, scope and time, and because it seeks information which is irrelevant and is not calculated to lead to the discovery of relevant or admissible evidence. Subject to and without waiving these objections, Covil states it was dissolved in 1993 and that it is no longer an active company, and no employees, agents, or officers are living or otherwise available to counsel for Covil to aid in responding to this Interrogatory. As a result, it is difficult if not impossible for counsel for Covil to retrieve or reconstruct the information requested in this Interrogatory. However, counsel for Covil is in possession of information, business records and documents accumulated by Covil's authorized agents, representatives, and attorneys, and maintained by its counsel, Gallivan, White, & Boyd, P.A., in Greenville, South Carolina, which

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

may or may not contain information responsive to this Interrogatory. Because the burden of deriving or ascertaining the answer from those business records and documents is the same for Plaintiffs as it is for Covil, Covil refers Plaintiffs to such business records and documents and will provide Plaintiffs the opportunity to examine and audit these records and to make copies of the same, if done at a time mutually agreeable to the parties.

5. With respect to each division, subsidiary or company listed in #4, identify the nature and extent of its function during the period of time it was in existence.

ANSWER:

Please refer to Covil's response to Interrogatory number 4. Subject to these objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that Industrial Associates, Derrick Insulation, and Taylor Insulation were involved in the insulation business and that Industrial Associates was an insulation contractor and sold materials.

6. Has this answering defendant been sued under its correct name? If no, please state the correct legal name of the defendant and provide the information requested in Interrogatory #1 above concerning the defendant as correctly named.

ANSWER:

Covil objects to this Interrogatory on the grounds it seeks information which is publicly available and/or is a matter of public record and, therefore, which is equally as accessible to Plaintiff as it is to Covil. Subject to and without waiving this objection, Covil states it was incorporated on December 30, 1954, as Covil Insulation Company. Upon information and belief, the name of the corporation was changed to Covil Corporation in the mid-1960s. Covil was dissolved in 1993 and is no longer an active corporation.

7. Please state whether or not you have ever held a certificate of authority to do business in this state and the address for your registered agent for service in this state.

ANSWER:

Covil objects to this Interrogatory on the grounds that it seeks information that is not relevant and not calculated to lead to the discovery of relevant or admissible evidence. Covil further objects to this Interrogatory on the grounds that it seeks information which is publicly available and/or is a matter of public record, and that the information is equally as accessible to Plaintiff as it is to Covil. Subject to and without waiving this objection, Covil states it is not an active corporation and therefore is not currently authorized to do business in any state. During the time it was operational, Covil Corporation was incorporated in the State of South Carolina. Covil Corporation was dissolved in 1993 and is no longer an active corporation.

8. Have you ever mined asbestos?

ANSWER:

Covil never mined asbestos.

9. If the answer to the previous interrogatory is "yes", please state the dates in which you were involved in mining of asbestos, and the locations of your mines.

ANSWER:

Not applicable.

10. Have you ever sold raw asbestos fiber to any of the co-defendants? If so, in what years and in what quantities did you make such sales.

ANSWER:

Please refer to Covil's response to Interrogatory number 4.

11. As to any product containing asbestos in any form or quantity, has this defendant ever:

(a) designed such a product;

(b) manufactured such a product;

(c) processed such a product;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(d) sold such a product;

(e) distributed such a product;

(f) relabeled such a product manufactured or designed by another;

(g) held a patent for such a product.

ANSWER:

Covil objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome in location, scope and time, and because it seeks information which is irrelevant and is not calculated to lead to the discovery of relevant or admissible evidence. Covil further objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not design, manufacture, or process any materials which contained asbestos. Covil alleges it was an insulation contractor and wholesaler of insulation materials which purchased from time to time insulation materials containing asbestos from numerous manufacturers and either sold them to contractors or applied them itself.

Subject to and without waiving these objections, Covil states it was dissolved in 1993 and that it is no longer an active company, and no employees, agents, or officers are living or otherwise available to counsel for Covil to aid in responding to this Interrogatory. As a result, it is difficult if not impossible for counsel for Covil to retrieve or reconstruct the information requested in this Interrogatory. However, counsel for Covil is in possession of information, business records and documents accumulated by Covil's authorized agents, representatives, and attorneys, and maintained by its counsel, Gallivan, White, & Boyd, P.A., in Greenville, South Carolina, which may or may not contain information responsive to this Interrogatory. Because the burden of deriving or ascertaining the answer from those business records and documents is the same for Plaintiffs as it is for Covil, Covil refers Plaintiffs to such business records and documents and will provide Plaintiffs the opportunity to examine and audit these records and to make copies of the same, if done at a time mutually agreeable to the parties.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that from 1969 until 1975, it sold a cement product manufactured by Rock Wool under the name "Covilite." For a time, that product contained a small amount of asbestos. Covil never altered the form of this asbestos-containing product other than repackaging the product as Covilite. Covil and Rock Wool also had an agreement whereby Rock Wool would place the product in bags labeled "Covilite" and would then provide the Covilite-labeled product to Covil.

Covil incorporates by reference the asbestos-product manufacturers that are mentioned in the deposition of Palmer Covil dated July 13-15, 1977.

12. If the answer to the previous interrogatory or any subpart thereof was in the affirmative, please state the following information about each product:

(b) the manufacturer of the product;

(c) the designer of the product;

(d) the supplier of the raw asbestos fiber used in the product;

(e) the dates of its manufacture or sale by the answering defendant;

(f) the percentage of asbestos content of the product;

(g) the type of asbestos used in the manufacture of the product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to and without waiving these objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that the Rock Wool cement product Covil sold as Covilite contained less than one percent of asbestos for a period of time before asbestos was removed from the product altogether.

13. In what year did the answering defendant first begin selling or distributing asbestos-containing products? Please be specific for each asbestos-containing product manufactured, sold or distributed by you.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

14. In what year did the answering defendant last sell, distribute or manufacture an asbestos-containing product? Please be specific for each asbestos-containing product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it phased out asbestos-containing products in 1971, and any asbestos-containing products it still had in its warehouse after that date would have been destroyed by the warehouse fire in 1973. However, for an unknown amount of time after 1973, Covil did sell asbestos cloth that was treated and met OSHA's requirements. Covil's largest supplier of products was Owens-Corning, and Covil is informed and believes that the last date that Owens-Corning included asbestos in its manufacture of thermal insulation products, including Kaylo, was November 12, 1971.

15. For each asbestos-containing product manufactured and/or distributed by you, state:

(a) the brand name of the product and the inclusive years of its manufacture and/or distribution;

(b) the asbestos content by weight of each product for each year;

(c) the type of asbestos fiber used in each product;

(d) the application for which such product was advertised or sold;

(e) the temperature ranges for the products used;

(f) whether the product was a cement, a pipe covering, a cloth or other type of thermal insulation product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

16. Describe each product as to its color and physical characteristics and appearances.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

17. As to each product, state how such product was packaged or supplied.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

18. Does the answering defendant claim that any patent would cover any product listed in response to the interrogatories above? If so, give the number of the patent, the date same was issued and the number of each patent application that is pending.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

19. For such asbestos-containing product manufactured or designed by you, please state the specific batching requirements for that product.

ANSWER:

Covil objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome in location, scope, and time, and because it seeks information which is irrelevant and is not calculated to lead to the discovery of relevant or admissible evidence. Covil further objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not design, manufacture, or process any materials which contained asbestos.

20. State the time period each particular batching requirement was followed and any changes that were made.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 19.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

21. For each asbestos-containing product that you manufactured, please set forth the supplier of the raw asbestos fiber used for that product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 19.

22. As to each product mentioned above, identify the following:

(a) any pertinent trademark that was applicable to the product during any time of its sale;

(b) the label on the packaging of that particular product for each year of its manufacture;

(c) all sales brochures, specification sheets, performance data or other promotional material, as well as any and all installation materials, data or brochures which would have accompanied or been distributed in connection with the installation, application or use of each of the products listed above.

(d) The advertised use of the product (as to this interrogatory, you may provide a copy of the document in lieu of describing the same.)

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 19.

23. For each document listed or described above, please indicate the name or the names of the individuals having custody of said documents or copies thereof, and where they are located.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

24. Please describe in detail the method for disbursement and sale of each asbestos-containing product manufactured, designed or distributed by the answering defendant.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

25. Have any of the products listed in the answer to Interrogatories Nos. 12, 13 and 16 above been altered in chemical composition or asbestos type or content since their first being marketed?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

26. If so, please state:

(a) the trade name of each such product;

(b) the date such product was altered;

(c) the nature of that alteration;

(d) the reason for the alteration;

(e) what person has knowledge concerning the alterations.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

27. Identify all sales literature including brochures, advertisements, pamphlets or other material describing each asbestos-containing product manufactured by you beginning in 1925 and coming forward to date.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials that contained asbestos.

28. Prior to 1960, did you conduct any tests concerning the health consequences of the use of your asbestos-containing product?

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your asbestos-containing product" on the grounds that during the time it was an active company, Covil did not manufacture any materials that contained asbestos.

29. Prior to 1960, did you conduct any tests concerning the health consequences related to the manufacture of your asbestos-containing product?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your asbestos-containing product" on the grounds that during the time it was an active company, Covil did not manufacture any materials that contained asbestos.

30. Do any written memoranda, specifications, recommendations or other written materials of any kind or character related to the testing of said products exist?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

31. If so, please state:

(a) identify each such written material or document;

(b) who presently has possession of each such document and where is it located?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

32. Have you conducted any tests concerning the health consequences of the use of your product between 1960 and 1975 or the date that the asbestos content was removed from the product, whichever in [sic] the later.

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your product" on the grounds that during the time it was an active company, Covil did not design or manufacture any materials that contained asbestos.

33. If so, please state:

(a) what tests were done;

(b) who was responsible for conducting the tests;

(c) what the results of the tests were;

(d) identify any documents concerning the tests.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 32.

34. When did the asbestos-containing products manufactured by you first contain any warning or caution concerning the health consequences of the use of the product or the breathing of asbestos dust?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials that contained asbestos.

35. For each such product, please state:

(a) the wording of each warning or caution;

(b) the description of each such printed warning or caution;

(c) the method used to distribute the warning to persons who were likely to use the products;

(d) the date each such warning was issued;

(e) the name, address and job classification of each person who presently has possession of the above-described warning or caution;

(f) identify the warning or caution by date and content;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(g) state whether any industrial psychologist or human factors engineers were consulted prior to utilizing such warnings, or cautions;

(h) identify any special instructions provided with each product regarding its use or safety procedures to be employed by persons handling such product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

36. For any warning ever provided on an asbestos-containing product manufactured or distributed by you, please state:

(a) when the warning first appeared;

(b) what was the precise wording of the warning when it first appeared;

(c) was the warning ever altered, amended or changed in any manner and, if so, how and when;

(d) where was the warning located on the product or packaging;

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

Pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that the first asbestos-related warning Palmer Covil recalled seeing on a product read "this product contains asbestos dust." Mr. Covil saw testified in his above-referenced deposition that he saw that warning on a Johns-Manville or Owens-Corning product sometime during the 1966 to 1968 time frame.

37. When did you first become aware that warnings were placed on products distributed by other defendants?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11 and Interrogatory number 36.

38. State the manner in which each of your products was shipped and the type of container it was shipped in to the retailers.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your products" on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos. When Covil shipped a product manufactured by other companies from its warehouse to jobsites, Covil shipped the product in its original carton unless a carton was broken. If a carton was broken, Covil would remove some of the product from three or four cartons and put it one carton, but the carton in which the product was placed was still one of the original cartons,

39. When, if ever, did you specifically inform the purchaser or user of your products that contained asbestos that the use of that product or exposure to asbestos dust could cause cancer, asbestosis or other serious diseases? Please identify the document containing this information by date and location.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your products" on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

40. Identify any and all labeling or relabeling agreements in existence since 1925 between you and any other person including co-defendants.

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, Covil states that from 1969 until 1975, it sold a cement product manufactured by Rock Wool under the name "Covilite." Covil and Rock Wool also had an agreement whereby Rock Wool would place the product in bags labeled "Covilite" and would then provide the Covilite-labeled product to Covil.

41. Did you sell any of your products containing asbestos fibers or any raw fiber to any of the companies named as co-defendants in this suit?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your products" on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

42. If so, please state:

(a) the name, address and job classification of each individual who currently has possession of such knowledge, either by documents or records;

(b) please list the names of each co-defendant to whom your products have been sold;

(c) please state the dates of each such sale and the amount and kind of materials sold;

ANSWER:

Please refer to Covil's answer and objections to the preceding Interrogatory.

43. State whether your company manufactured asbestos-containing insulation products for a co-defendant and placed the co-defendant's labels, logos or insignia on said products and list each such co-defendant.

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

44. Has this defendant ever acquired another corporation, company or business which manufactured, sold, processed, distributed or contracted to apply insulation products containing asbestos.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

45. If the answer to the above interrogatory is yes, please state the following concerning such other entity:

(a) the full and correct name;

(b) the principal place of business;

(c) the state of incorporation;

(d) the date of its acquisition by you;

(e) the products that the other entity manufactured, distributed, sold or used.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

46. Did you ever stamp or imprint the name of your company, its initials or any identifying logo on any of your asbestos-containing products? If so, please describe the identifying logo or initials and the dates of its inclusion on the product and the product on which it was included.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your asbestos-containing products" on the grounds that during the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

time it was an active company, Covil did not manufacture any materials which contained asbestos.

Subject to those objections, Covil states that from 1969 until 1975, it sold a cement product manufactured by Rock Wool under the name "Covilite." For a time, that product contained a small amount of asbestos. Covil never altered the form of this asbestos-containing product other than repackaging the product as Covilite. Covil and Rock Wool also had an agreement whereby Rock Wool would place the product in bags labeled "Covilite" and would then provide the Covilite-labeled product to Covil.

47. As of the date of your answers to these interrogatories, is your company still manufacturing, selling or distributing any asbestos-containing products? If so, give the brand names of each such product.

ANSWER:

No. Covil was dissolved in 1993 and is no longer an active company. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

48. For each product identified as being manufactured, sold or distributed by you in interrogatories No. 12, 13, or 16, state whether:

(a) you have actual containers or photographs of containers in which said products were sold or distributed;

(b) who is the custodian or keeper of said containers or photographs including their address and telephone number.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

49. From what source or sources did you obtain raw asbestos fiber beginning in 1940 and going to date, on a yearly basis?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it purchased raw asbestos fibers from Johns-Manville and National Gypsum at some point in time, presently unknown to Covil, to use the asbestos fibers as a finishing cement.

50. State whether or not any warnings, cautions, caveats, or directions accompanied the raw asbestos fiber referred to in the previous interrogatory and identify the nature and extent of said warnings, cautions, caveats or directions accompanying said fiber.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

51. State what date said warnings, cautions, caveats or directions first appeared on the mined asbestos fiber.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

52. If you have discontinued manufacturing and/or selling asbestos products, please state the reason or reasons.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos. Covil dissolved in 1993.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

53. When was the first time that you received notice that any person was claiming an injury as the result of using asbestos-containing products manufactured and/or sold by your company?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory on the grounds that during the time it was an active company, Covil did not manufacturc any materials which contained asbestos. Upon information and belief, the first asbestos-related workers compensation' claim filed by a Covil employee was a claim for asbestosis filed in 1972.

54. For each such injury that you received notice of or a claim for prior to 1970, please list:

(a) the name and address of each claimant;

(b) the date of the notice of each claim;

(c) a description of the claim (i.e. workmen's compensation or a third party liability action);

(d) the type of injury allegedly sustained;

(e) the name and address of each attorney who represents individuals making such claims;

(f) the style and the court number of each claim;

(g) the resolution of each claim that has been disposed of;

(h) the custodian of the records that relate to the claim (in lieu of answering the above question, you may attach copies of any and all claims).

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

55. Do you contend that insulation products containing asbestos can be manufactured or treated so as to eliminate all potential health hazards to workers installing

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

the same? If so, please explain in detail what your contentions are and the basis for each contention.

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research, or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery.

56. Did you receive any reports or communications from your workmen's compensation insurance carrier or products liability insurance carrier with regard to the hazards incident to the use of asbestos-containing insulation products? If so, please state who has possession of the contents of such reports, the location of such reports and the substance of the contents of such reports, listing for each such report the respective insurance company, its address, the agents signing such correspondence and the date of such notice or report.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

57. Have any of the co-defendants named in this litigation ever furnished you with any information as to the state of the medical knowledge regarding the connection between asbestos dust exposure and the contracting of pulmonary diseases including asbestosis and cancer?

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research, or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

regarding same, which are privileged and protected from discovery. Please refer to Covil's answer and objections to Interrogatory number 11.

58. If the answer to the proceeding interrogatory is in the affirmative, please identify:

(a) what information you were furnished;

(b) who furnished that information;

(c) when that information was furnished.

ANSWER:

Please refer to Covil's answer and objections to the preceding Interrogatory.

59. Have you at any time since 1930 interchanged results of research tests, medical studies or experiments regarding the state of the medical knowledge regarding the connection between asbestos exposure and the contracting of pulmonary diseases including lung cancer and asbestosis with any other person, including any co-defendants in this action?

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery. Please refer to Covil's answer and objections to Interrogatory number 11.

60. If the answer to the proceeding interrogatory is in the affirmative, please state:

(a) when this interchange took place;

(b) who participated in these interchanges;

(c) summarize the content of these interchanges or studies.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ANSWER:

Please refer to Covil's answer and objections to the preceding Interrogatory number.

61. Please state if you or anyone on your behalf ever conducted, sponsored or contributed financially to any studies or research to determine if the inhalation of asbestos fibers may be harmful.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery.

62. If the answer to the above question is in the affirmative, please state:

(a) by whom the research was conducted, giving complete names and addresses;

(b) the dates that each such research project or text was conducted;

(c) the complete results of each test or study;

(d) identify all documents that refer, reflect or related to the test or study;

(e) supply copies of the reports of the research department pertaining to the use of the use by the corporation of asbestos in their manufacture of insulation products.

ANSWER:

Please refer to Covil's answer and objections to the preceding Interrogatory.

63. Please state the names and addresses of your chief medical officers employed by defendant in that capacity. If you did not have a medical officer, please indicate what persons or persons performed that function.

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to these objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that at certain times during its existence, it had company doctors who treated injuries. The company doctors also took chest x-rays of Covil employees each year, beginning in the early 1970s. Covil is aware of the following doctors who were company doctors at various times during Covil's existence, but Covil acknowledges that the following list may not be exhaustive:

- Dr. E. F. Gaynor, Dr. W. E. Jett, and Dr. H. D. Stepp
  2803 – B Buncombe Rd
- Dr. D. Burton Keppler
  5 Wade Hampton Plaza
- Dr. George Bailey
  Pleasantburg Dr.
- Dr. Harold Batson
  Cedar Lane Rd.
- North Hills Medical Center
  North Hills Shopping Center

64. Please state the names and addresses of all physicians who were employed, retained or otherwise engaged by you at any of your facilities from the years 1930 until the present.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11 and Interrogatory number 63.

65. Please state the names and addresses of all persons employed by you from 1930 until the present time who functioned as industrial hygienists. As used in this interrogatory, an industrial hygienist is one who performs engineering or health studies to

identify and evaluate potential health hazards and suggests methods of dealing with the same.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

66. For each industrial hygienist listed above, please state:

(a) the facility or office to which that individual was assigned;

(b) the complete and precise duties and responsibilities.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

67. Did anyone ever make any recommendations and/or suggests to you pertaining to the risks and hazards associated with the manufacturing or use of insulation products containing asbestos?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

68. If the answer to the above question is yes, please state:

(a) where such recommendations or suggestions were made;

(b) who made such recommendation or suggestions;

(c) to whom were these recommendations or suggestions made;

(d) the substance of the recommendations or suggestions;

(e) what actions did you take as the result of these recommendations and suggestions?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

69. Do you agree that there is a causal connection between the asbestos dust exposure and

(a) asbestosis?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(b) lung cancer?

(c) mesothelioma?

(d) other cancers?

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research, or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery. Covil further objects to this Interrogatory on the grounds that Covil does not possess the medical or scientific expertise to render an opinion on causation generally or in this particular case and, therefore, has and will rely on expert witnesses who are qualified to render such causation opinions.

70. If your answer to the previous Interrogatory is yes as to any or all subparts, please identify the following as to each disease process listed above:

(a) when and how you first learned of such connection;

(b) if the knowledge was obtained by the attendance of any conference, lecture, convention, symposium, or meeting, identify such event and provide the name of the person attending or the documents obtained from that meeting;

(c) if knowledge was obtained from a medical or scientific study or any other published works, identify the same;

(d) if the knowledge was otherwise obtained, identify the manner of receipt of the document or communication.

ANSWER:

Please refer to Covil's answer and objections to the preceding Interrogatory.

71. With regard to any knowledge obtained subsequent to that identified in the previous Interrogatory, please identify:

(a) all documents or other communications, oral or written concerning the causal connection between exposure to asbestos dust or asbestos

products and the disease processes identified in question No. 60 above;

(b) identify the person communicating the information.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 69.

72. When and by what manner were you first aware of the hazards of asbestos or asbestos-containing products to the users of those products?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that, around 1965 or 1966, Palmer Covil read articles by Dr. Selikoff that discussed problems associated with asbestos exposure. In that deposition, Palmer Covil testified that around 1965 or 1966, the unions also started talking about asbestos and asbestosis, and a publication called *Asbestos Worker* mentioned asbestosis and asbestos hazards. Mr. Covil testified in his above-referenced deposition that he read an association magazine that included statements about asbestos by unions and Dr. Selikoff during that 1965 to 1966 period.

73. Identify any medical examination programs offered or sponsored by your [sic] or your insurance carrier for employees handling or otherwise exposed to asbestos and asbestos products. With respect to each such program, please state:

(a) the manner of communicating with employees about such program;

(b) whether examination was mandatory or optional;

(c) what percentage of workers permitted to undergo such examination actually participated;

(d) what percentage of workers were found to have asbestosis or mesothelioma or bronchogenic carcinoma;

(e) with respect to (d), what percentage of such workers were paid disability, workmen's compensation benefits or for whose benefit

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

medical expenses were paid to undergone treatment for such conditions.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that its company doctor took annual chest x-rays of Covil employees, beginning in the early 1970s.

74. Identify all trade organizations, associations or other entities including but not limited to ATI, IHF, NAIMA, AIA, NICA, TIMA, QAMA, PICA QAPA, to which you belonged or in which you have participated since 1925 and the years of your participation.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states it was a member of the Southeast Insulation Contract Organization from 1948 until at least 1977, and Palmer Covil served as president and as a member of the Board of Directors for the Southeast Insulation Contract Organization at various times. Palmer Covil also served on the Board of Directors for the National Insulation Contract Association ("NICA") for approximately nine years, and he was a member of that organization from around 1960 until at least 1977. Palmer Covil was a member of The International Association of Asbestos Workers and Heat and Frost Insulators union (the Savannah local union and Charleston local union) from approximately 1936 until 1942.

75. Identify all persons attending on your behalf any meetings held by any trade organization listed in the Interrogatory stated above.

ANSWER:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that Palmer Covil attended meetings for the Southeast Insulation Contract Organization and the National Insulation Contract Association.

Covil further responds that Palmer Covil testified in his above-referenced deposition that he attended some regional conventions for a union when he was an active member, but he did not specifically state which union's conventions he attended. Mr. Covil testified he would not have attended those union conventions after 1945 or 1946.

76. Identify the names or nature of all asbestos notes, report studies or other writings submitted by you or received by you at meeting identified in the Interrogatory stated above.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

77. Identify all documents you received from or submitted to the trade organizations, associations or other entities identified in Interrogatory relating to the relationship between asbestos exposure and disease.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Subject to those objections, and pursuant to Palmer Covil's deposition dated July 13-15, 1977, Covil states that it learned about the OSHA regulations relating to asbestos through trade magazines. Covil further states that Palmer Covil received the NICA Outlook magazine after joining NICA.

78. Did you direct to be performed, sponsor, finance or receive the results of any studies or tests performed by the Saranac Lake Laboratory or the Trudeau Foundation relating to asbestos exposure and its effect on human life? If so, identify:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(a) all documents summarizing findings or results of those studies or tests which you have in your possession or control;

(b) all communications, oral or written, between answering defendant and Saranac personnel, including but not limited to Gerrit W. H. Schepers, M.D.;

(c) all documents relating to Saranac studies received or submitted by you, either directly, through associated or predecessor companies, through other companies, or through any trade associations, organizations or entities;

(d) all recommendations or findings of such studies in relating to:

(1) adequacy or inadequacy of the threshold limit values;

(2) the substitution of materials other than asbestos to be used in insulation process;

(e) where the documents and/or communications identified in this Interrogatory are presently maintained.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

79. Identify all persons who have testified on your behalf and all documents presented to or utilized in preparation of testimony before the Occupational Safety and Health Administration, the National Institute of Occupational Safety and Health, any U.S. Congressional committee or subcommittee or governmental hearing or investigative proceeding on the subjects of biological effects on human life from exposure to asbestos and the setting, modification, feasibility and acceptance of allegedly safe or proper levels of such exposure to asbestos and asbestos products.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

80. For all testimony set forth above, please identify:

(a) the dates and descriptions of the proceedings;

(b) the relationship between the person who testified or responded and you:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(c) all studies, test results or other scientific or medical documents relied upon by said person as a basis for any recommendations made or testimony given;

(d) whether at any time prior to or following such testimony you possessed knowledge of documents suggesting that existing or proposed threshold limit values were not safe or proper or that lower threshold limit values were necessary in order to prevent disease; as to this response, please identify the origin of the knowledge and all documents relating thereto;

(e) whether at any time prior to or following such testimony you were aware that the proper method for determination of safe levels of asbestos dust was to test concentrations of fibers in the air rather than the total number of particles. If your answer is in the affirmative, identify the origin of said knowledge and all documents relating thereto.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11.

81. What do you understand "threshold limit value" to mean?

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research, or legal theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery. Covil further objects to this Interrogatory on the grounds that "threshold limit value" is a technical phrase and, therefore, Covil has and will rely on expert witnesses who are qualified to address, define and explain the phrase "threshold limit value."

82. What do you understand "dose response relationship" to mean?

ANSWER:

Covil objects to this Interrogatory to the extent it seeks attorney work product and/or disclosure of the mental impressions, conclusions, strategy, opinions, legal research, or legal

theories of counsel or other representatives of Covil concerning this lawsuit and their contentions regarding same, which are privileged and protected from discovery. Covil further objects to this Interrogatory on the grounds that "dose response relationship" is a medical, scientific and/or technical phrase and, therefore, Covil has and will rely on expert witnesses who are qualified to address, define and explain the phrase "dose response relationship."

83. What is being measured when you take the measurement of threshold limit value as you define it?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 81.

84. Did you advertise any of your asbestos-containing products for use on ships or navy vessels?

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your asbestos-containing products" on the grounds that during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

85. If the response to Interrogatory No. 84 was yes, please state

(a) the name of the product;

(b) in what years you advertised the product;

(c) the intended purpose of the product.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 84.

86. Did you design any asbestos-containing products for use on ships or navy vessels? If so, please state

(a) the name of the products;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

(b) the year of their design;

(c) the manufacturer;

(d) the intended use.

ANSWER:

During the time it was an active company, Covil did not design or manufacture any materials which contained asbestos.

87. Did you sell any asbestos-containing materials to the:

(a) United States government?

(b) General Services Agency?

(c) United States Navy?

(d) any naval shipyard?

any shipyard?

ANSWER:

No.

88. Do you ever conduct any dust studies in any of your asbestos product manufacturing facilities? If so, please state:

(a) the data of each such study;

(b) the person conducting the study;

(c) the result or conclusion;

(d) who presently has possession of the report or study.

ANSWER:

Please refer to Covil's answer and objections to Interrogatory number 11. Covil also objects to use of the phrase "your asbestos product manufacturing facilities" on the grounds it

implies Covil manufactured asbestos-containing products. To the contrary, during the time it was an active company, Covil did not manufacture any materials which contained asbestos.

Allyson R. Twilley
Daniel B. White (S.C. Bar No. 6070)
Ronald G. Tate (SC Bar No. 5475)
Allyson Twilley (SC Bar No. 101884)
GALLIVAN, WHITE & BOYD, P.A.
Post Office Box 10589
55 Beattie Place, Suite 1200 (29601)
Greenville, SC 29603
Telephone: (864) 271-9580
Facsimile: (864) 271-7502
dwhite@gwblawfirm.com
rtate@gwblawfirm.com
atwilley@gwblawfirm.com

Attorneys for Defendant Covil Corporation

February 5, 2018
Greenville, South Carolina

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing **Defendant Covil Corporation's Responses to Plaintiffs' First Set of Interrogatories to All Defendants** was served on all known defense counsel of record via email, and served on the below listed counsel of record for Plaintiffs via email and the United States Postal Service, with sufficient postage affixed thereto and return address clearly marked, on the 5th day of February 5, 2018.

COUNSEL SERVED:

John D. Kassel, Esq.
Theile B. McVey, Esq.
Kassel McVey, Attorneys at Law
1330 Laurel Street
Post Office Box 1476
Columbia, SC 29202

Jonathan Holder, Esq.
Jessica Dean, Esq.
Dean Omar Branham, LLP
302 N Market Street, Suite 300
Dallas, Texas 75202

William M. Graham
Wallace & Graham
525 N. Main Street
Salisbury, NC 28144

Carla Towers

EXHIBIT 8

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Dewey Adams ✓

Clary D. Brown ✓

William Bartholomew

W. J. Bumgardner ✓

Oliver Caines ✓

Leon Davis ✓

Wayne Duncan ✓

Thomas Heath ✓

Henry Koontz ✓

Kenneth Kidd

Robert Quattlebaum ✓

Gary Lee Smith ✓

Charles Turner ~~1962~~

Murrell Wilson

Grover Norris

John White ~~1994~~ ✓

Walter White - prior 62 ✓

Furman Gause ✓

Donald Murray (X)

Franklin Fowler ✓

James Prim X

George Glazier

Bobby Taylor ✓

Harold Taylor ✓

John Call

John Gatlin

Marion Ruff X

John Brinson

Robert ~~Skimmer~~ Showman

Billy Bowers

Rufus Matthews

~~Otis~~ Ocie Huggins ✓

J. C. Derrick (X)

R. L. Turner ✓

Moye Chancy

PLAINTIFF'S EXHIBIT 9

PEN3AD 800-451-6080

Covil_Palmer Covil Depo 000515

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Claude Gunnells

Idalee Wiggins
Janie
~~Janice~~ Thomas

Ernest Knight

Isiah Mood

John Harold Pendley ✓

Franklin Brooks

Horace G Watero, Jr.

Jerome Kaminski

William J. Buff

Gordon Barnett ✗

Roy E. King ✓

Levy Scott

Earl Tuck ✓

Herbert Wm. DAVIS

Everette Bouchelle

Ernest (Rooster) Kastner ✓

Wilford Bull

Hekeirch Prioleau

Martis Turley

John S Ruff

Wm. F. Tomberlin ✓

Bervia Vodress Adams ✓

2

Covil_Palmer Covil Depo 000516

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT 9

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF SPARTANBURG	)	FOR THE SEVENTH JUDICIAL CIRCUIT
JERRY CRAWFORD, and **EVELYN KAY CRAWFORD**,	)	**C/A NO. 2017-CP-4204429**
Plaintiffs,	)	
v.	)	In re: Asbestos Personal Injury Litigation Coordinated Docket
CELANESE CORPORATION, *et al.*	)	
Defendants.	)	

PLAINTIFFS' 30(b)(6) NOTICE OF DEPOSITION OF DEFENDANT COVIL CORPORATION

PLEASE TAKE NOTICE that Plaintiffs, pursuant to Rule 30 of the South Carolina Rules of Civil Procedure, will take the videotaped deposition of the designated representative of Defendants **COVIL CORPORATION** on **May 18, 2018 at 1:00 p.m. (EDT)** and will take place **at the location indicated below,** at which time you are notified to appear and take part as you see fit and proper in such examination. The deposition will take place before a certified court reporter and videographer. **If necessary, the deposition shall continue day to day**.

LOCATION: **Gallivan, White & Boyd**
55 Beattie Place, Suite 1200
Greenville SC 29603

Conf. Call-in: **866-640-4044**
Passcode: **TBD**

The deposition is to be taken for the purpose of discovery or for use at trial, or both. The topics to be covered at the deposition are listed in Exhibit "A" attached hereto. Pursuant to Rule 30(b)(5), Defendant requested to produce documents responsive to the descriptions listed in Exhibit "B" also attached hereto. To avoid the deponent having to waste time sitting while

Plaintiffs' counsel reviews documents produced, please produce all documents at least 48 hours prior to the start of the deposition.

DEAN, OMAR, & BRANHAM, LLP

/s/ Jonathan M. Holder
Jonathan M. Holder (SC Bar No. 77935)
David W. Henderson (To be admitted *Pro Hac Vice)*
302 N. Market Street, Suite 300
Dallas, Texas 75202
jholder@dobllp.com
dhenderson@dobllp.com
Other email: tgilliland@dobllp.com

KASSEL MCVEY, ATTORNEYS AT LAW
Theile B. McVey (SC Bar No. 16682)
1330 Laurel Street
Post Office Box 1476
Columbia, South Carolina 29202-1476
803-256-4242
803-256-1952 (Facsimile)
tmcvey@kassellaw.com
Other email: emoultrie@kassellaw.com

ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing instrument was served on counsel for all parties via Certified U.S. Mail Return Receipt, U.S. Mail Standard First Class, and/or electronic mail this 18th day of April, 2018.

/s/ Jonathan M. Holder
Jonathan M. Holder

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT A

For purposes of this request, the following words shall have the following meanings:

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors-in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf.

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

The term "PREMISES AT ISSUE" means the following premises at which Plaintiff Jerry Crawford worked during his career:

1. Celanese (Hoechst/Celanese) – Spartanburg, SC
2. Timken Roller Bearing Plant – Gaffney, SC
3. Collins & Aikman – Cowpens, SC

Please provide a corporate representative to be deposed on the following subject matters:

1. The identity of any product(s) that contained any asbestos component, whether or not classified as an asbestos product by you, including but not limited to valves, boilers, pumps, turbines, steam traps, gaskets, or packing (hereinafter referred to simply as "asbestos-containing products") designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, contracted, installed, specified, required, recommended, and/or used by the Defendant including its predecessors, successors, affiliates, subcontractors, agents, assigns, subsidiary or parent companies, and any divisions or subdivisions, including but not limited to, any person, corporation, company or business entity which formed part of any combination, consolidation, merger or reorganization from which it was created or was the surviving corporation whose assets, stock, property, products or product line was acquired by it (hereinafter referred to as "the company" "you" or "your"), including: the brand name, trademark name, and generic name of the product(s); the inclusive dates of design, manufacture, fabrication, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use; a physical description of the product(s), including color, shape, size, and weight per unit, texture, the percentage of asbestos contained therein, the type of asbestos and other mineralogical content; the percentage of each type of asbestos contained therein; the amount of product(s) that were designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; the use for which the product(s) was designed, manufactured, fabricated, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used; and other information about the product(s).

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

2. Information regarding the use of any asbestos-free product as a replacement, substitution, or alternative for any asbestos-containing product designed, manufactured, purchased, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, and/or used by you, including but not limited to: the name of the product; the date on which the product was discontinued or asbestos was removed from the product; the reason for the discontinuation or removal of asbestos from the product; and the identity of each employee or officer who participated in the decision or was present at any meeting at which the decision to remove or discontinue using asbestos in the product was discussed or made.

2. Information regarding all designers, manufacturers, sellers, suppliers, distributors, contractors, subcontractors, dealers, wholesalers or other entities who provided asbestos-containing products to you to market, advertise, supply and sell, including but not limited to: the name of the designer, manufacturer, seller, supplier, contractor, subcontractor, dealer, wholesaler or other entity; the brand name, trademark name and generic name of the materials supplied; the amounts supplied; the inclusive dates of supply for each material; the total dollar amount of materials supplied; the asbestos content of the materials supplied; the place to where the materials were shipped; the place where the materials were used by you; the products of yours in which the materials were incorporated; whether any documents exist regarding the materials supplied; any other information concerning the materials and the transactions.

4. Any and all information regarding contracts, agreements, arrangements, communications, sales and/or dealings between, by, or among you and (a) any of the above-captioned Plaintiff(s); (b) any of the above-captioned Plaintiff(s)' employers, (c) any of the above-captioned Plaintiff(s)' jobsites, (d) any manufacturer of asbestos-containing insulating products and/or any other asbestos-containing products you marketed, advertised, supplied, and/or sold, (e) any co-defendant named in this litigation, (f) any other persons or entities concerning any jobsites or employers at issue in the above-captioned cases, and/or (g) any other company, entity or person which did business with you for the design, manufacture, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, and/or use of asbestos-containing products in North Carolina and/or South Carolina.

5. All information concerning design, manufacture, sale, installation, inspection, service, maintenance, repair, conversion, use and replacement of your products and/or other products or equipment at any of above-captioned plaintiff(s) jobsites.

6. Any information you have to either confirm or dispute that the products identified by the above-captioned Plaintiff(s) or any of their coworkers were or were not present at the jobsites at issue and the asbestos content or absence thereof of such products.

7. Any and all information regarding the identity of any company, person, government agency or other entity that purchased, distributed, sold, supplied, installed, applied or used asbestos-containing products marketed, advertised, supplied, and/or sold by you, including but not limited to: the identity, address and telephone number of each such

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

entity; the date of each such transaction; the identity of the product(s) involved in each such transaction; the quantity of the product(s) involved in each such transaction; the asbestos content of the product(s) involved in each such transaction; and whether any written agreements exist reflecting the nature, terms, and extent of any such dealings.

8. Segregated sales information for every customer or purchaser for which you contracted, designed, engineered, manufactured, marketed, advertised, sold, supplied, distributed, installed, specified, required, recommended, or used asbestos-containing products.

9. The identity and last known address and phone number of all corporate officers, officials, directors and employees having responsibility for creating, directing, executing, managing, supervising, overseeing or setting any of the following: the business, policy or procedures of your company with regard to the manufacture, design, engineering, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products; the formulation, design, content, and wording of any warning, caveat, caution, information or statement placed on any asbestos-containing product or container for such product regarding the dangers of asbestos inhalation; the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products; and whether the assembly, handling, application, service, maintenance, repair or use of your asbestos-containing products released dust or asbestos fibers.

10. Information regarding any warning, caveat, caution, information or statement given on or with any asbestos-containing products or container by you regarding the dangers of asbestos inhalation; including but not limited to the date, content and samples of any such warning.

11. Information regarding any studies, evaluations, inquiries, investigations or analyses conducted or received by you concerning any potential hazards resulting from the release of asbestos dust or fibers during the manufacture, assembly, handling, application, installation, service, maintenance, repair, use, or removal of asbestos-containing products.

12. Information regarding the inspection of any of your facilities in any way related to asbestos, including but not limited to, the dates of the inspection(s), parties conducting the inspection(s), results of the inspection(s), and all other information related to the inspection(s).

13. Any information gathered or received by you concerning your competitors for the design, manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, specification, requirement, recommendation, or use of asbestos-containing products.

14. Information about any claims for workers' compensation benefits filed by your present or former employees, officers or directors based upon pneumoconiosis, pleural disease, pulmonary fibrosis, asbestosis, lung cancer, mesothelioma, and any other cancers and lung diseases.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

15. Information regarding any inquiries or communications received from any of your suppliers, customers, purchasers, product users or any other persons or entities concerning the possible, potential, alleged or actual health hazard associated with the inhalation of asbestos dust or fibers.

16. Information regarding the date, source, nature and extent of any notice or knowledge received by you or any of your employees, officers or directors, or by any of your parent or subsidiary companies, or by any of your distributors, that there was a possible, potential, alleged, or actual health hazard associated with the inhalation of asbestos dust or fibers during the manufacture, handling, application, installation, service, maintenance, repair, removal, or use of any asbestos-containing product.

17. Information concerning asbestos-related personal injury or wrongful death civil suits in which you were an interested party, which were in any way related to the manufacture, purchase, marketing, advertising, sale, supply, distribution, installation, service, maintenance, repair or use of asbestos-containing products, or any injury therefrom, including but not limited to: the court and district in which each claim was filed and heard; the case number(s) or civil action number(s); the substance of any court rulings made concerning your successor or parent liability; the names and addresses of all witnesses identified in the suit(s); whether any deposition or trial testimony was taken; whether you have copies of any of the discovery, deposition or trial testimony from the suit(s); the name, address and telephone number of the attorneys that represented you in the suit(s); and the outcome of the suit(s).

18. Information regarding all professional, trade, industrial, safety, hygiene or health associations, research foundations or organizations to which you or any of your employees, officers or directors, or any of your parent or subsidiary companies have belonged or held memberships in, including but not limited to: the name and address of the association or organization; the dates of membership; the dates, locations and subject matters of any meetings attended; the identity and location of all minutes, digests, reports, journals, periodicals, newsletters and/or other documents received from any such association or organization.

19. Any information concerning the inception, formation, incorporation, reformation, and/or re-incorporation of your company, including but not limited to the date(s), interested parties, states(s) of incorporation, and business intention or purpose.

20. Any information concerning your past and present corporate history and structure, including but not limited to: the names and addresses of each of your past and present parent and subsidiary companies, whether the ownership was in whole or in part, as well as any companies that you have or had an interest in; your business activities over the years; the identity, title, years of employment, and other information regarding your directors, executives and employees over the years; the make-up of current and past boards of directors; your present and former assets, trade names, goodwill and liabilities; corporate transactions of which you have been a part; the location, years of operation, and

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

business activities of each of your facilities and the facilities of your parent or subsidiary companies; and other information regarding your corporate history and structure.

21. The identity and address of all of your insurers, past and present, including but not limited to policy specifics, such as claim limits, aggregate limits, and coverage dates.

22. Financial data for your company from its inception to the present time.

23. Information regarding your record or document retention program, including the titles, names, addresses and telephone numbers of any present and former employee, officer or director responsible for the retention, retrieval, removal and/or destruction of the company's records and documents from your inception to the present time.

24. The identity and last known address and phone number of all present and former employees, officers, directors or other persons with any involvement with, or potential information about, any topic listed herein.

25. The source and basis of any information provided by you in response to any discovery request in this case.

26. Information and documents requested in Plaintiffs' Requests for Production of Documents in this matter.

27. The identity and location of all records and documents in your custody or control regarding the subject matter of the foregoing paragraphs of this notice.

28. Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
    (a) The American Society of Mechanical Engineers;
    (b) The American Society for Testing and Materials;
    (c) The American Petroleum Institute;
    (d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
    (e) Chlorine Institute;
    (f) Industrial Hygiene Foundation;
    (g) The American Industrial Hygiene Association;
    (h) National Insulation Manufacturers Association;
    (i) The Asbestos Textile Institute;
    (j) The Asbestos Information Association of North America;
    (k) The Asbestos Information Association;
    (l) The National Safety Council;
    (m) ACGIH
    (n) The American Occupational Medicine Association;
    (o) The American Public Health Association;
    (p) The American Medical Association;

(q) The American Chemical Society;
(r) NIOSH; and
(s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

29. Any and all evidence and/or testimony that you intend to use to dispute any of the above-captioned Plaintiff(s) use and exposure to asbestos-containing products manufactured by you.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT B

For purposes of this request, the following words shall have the following meanings: Definitions: "RECORD" or "RECORDS" or "DOCUMENT" or "DOCUMENTS" means any and all written, printed, typed, recorded or graphic material, however produced, or reproduced, stored, known to exist, by way of example and not by limitation, invoices, contracts evidencing purchase or receipt, ledger cards, material requests, communications, writings, printings, records, worksheets, abstracts, summaries, statistics, notes, market data, journals, ledgers, expense reports, specifications, contracts, contract bids, purchase orders, bills of lading, shipping orders, dock receipts, cancelled checks, computer print-outs, microfilm, microfiche, which in any way pertain to the document request made herein.

The terms "YOU" and "YOUR" mean responding party and all of its divisions, predecessors-in-interest, successors-in-interest, subsidiaries, parent companies, sister companies, joint ventures, partners and divisions thereof, including all current and former owners, employees, managers, officers, directors, agents, attorneys and any other person(s) acting upon its behalf

The term "PERSON" and "PERSONS" means a natural person, firm, association, organization, partnership, business trust, limited liability company, corporation, or public entity.

The term "PREMISES AT ISSUE" means the following premises at which Plaintiff Jerry Crawford worked during his career:

1. Celanese (Hoechst/Celanese) – Spartanburg, SC
2. Timken Roller Bearing Plant – Gaffney, SC
3. Collins & Aikman – Cowpens, SC

Please produce the following:

1. Any and all documents relating to the Defendant's knowledge of the potential health hazards associated with asbestos.

2. All documents which you contend support your claim that you adequately warned anybody that exposure to asbestos could cause any cancer.

3. All vendor invoice and purchase order records for all asbestos-containing products sold to any Premises at Issue between 1962 and 2008.

4. All Industrial Hygiene records pertaining to any Premises at Issue, including any correspondence, air monitoring and test results conducted between 1962 and 2008.

5. Produce all sales records, and any summaries or compilations, showing any supplier of asbestos-containing component parts which YOU utilized in any asbestos-containing product *sold or supplied to any Premises at Issue* between 1962 and 2008.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

6. Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Defendant or predecessor of Defendant in this matter* between 1962 and 2008.

7. Produce all vendor invoices and purchase order records for all asbestos-containing component parts, including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc. *sold to any Premises at Issue* between 1962 and 1982.

8. For any asbestos-containing product YOU manufactured for, sold to, or supplied to any Premises at Issue between 1962 and 2008, produce all product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing product.

9. For any asbestos-containing component parts, (including but not limited to gaskets, gasket material, packing, raw asbestos fiber, etc.), which YOU sold to any Defendant or predecessor of Defendant in this matter between 1962 and 2008, produce all associated product manuals, including but not limited to any owner's manual, any shop manual, or any other repair manual or maintenance manual or other literature produced or recommended by YOU associated with such asbestos-containing component part.

10. For any Premises at Issue for which YOU hold any liability, produce all Industrial Hygiene records pertaining to such premises including any correspondence, air monitoring and test results conducted between 1962 and 2008.

11. For any asbestos-containing product manufactured by YOU at issue in this case, produce all Industrial Hygiene records including any correspondence, air monitoring and test results in any way related to asbestos, conducted at the manufacturing facilities of such asbestos-containing products in United States between 1962 and 2008.

12. Any and all documents relating to all precautions, warnings and actions taken by Defendant at any time to any risk from exposure to asbestos;

13. Any and all documents relating to the last year asbestos or asbestos components or asbestos products were used with Defendant's or any suppliers' asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant and the reason(s) why such products were no longer used;

14. Any and all documents relating to any tests, studies, precautions, dust level counts or actions taken by Defendant or those hired by Defendant to determine the amount of asbestos released when working with or around asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

15. Any and all documents relating to any specification by Defendant in relation to the use of asbestos in any of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant or any component part of asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant;

16. Any and all documents relating to any and all sales literature including, but not limited to sales brochures and promotional literature regarding asbestos-containing products and/or equipment manufactured, marketed, promoted or sold by Defendant;

17. Any and all documents relating to any and all lists, indexes, business cards or other documents reflecting the names of companies, individuals, or locations who sold asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by Defendant;

18. Any and all documents relating to any and all warnings, caution, or hazard information concerning asbestos-containing products and/or equipment manufactured, marketed, promoted, sold by the Defendant. This request includes any and all Material Safety Data Sheets;

19. Any and all documents listing the purchasing personnel responsible for obtaining asbestos-containing products manufactured, marketed, promoted, sold by the Defendant. This request includes those responsible for purchasing who are currently employed by Defendant and all former sales people who were with Defendant;

20. Any and all documents relating to the current net worth of Defendant;

21. Any and all documents relating to the conduct of the Defendant;

22. Any and all documents demonstrating any and all agreements or other information regarding any work done by Defendant or by Plaintiff(s) employer(s) at any of the jobsites at issue in any of the above-captioned cases;

23. Documents relating to Defendant's membership in any trade organizations or trade organizations at which asbestos was discussed or participation on any committees, boards, foundations, institutes, or other bodies who discussed the use of asbestos-containing materials in the industry engaged in by Defendant including, but not limited to:
    a) The American Society of Mechanical Engineers;
    b) The American Society for Testing and Materials;
    c) The American Petroleum Institute;
    d) The Chemical Manufacturer's Association (or its predecessor, the MCA);
    e) Chlorine Institute;
    f) Industrial Hygiene Foundation;
    g) The American Industrial Hygiene Association;
    h) National Insulation Manufacturers Association;
    i) The Asbestos Textile Institute;
    j) The Asbestos Information Association of North America;
    k) The Asbestos Information Association;

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

l) The National Safety Council;
m) ACGIH
n) The American Occupational Medicine Association;
o) The American Public Health Association;
p) The American Medical Association;
q) The American Chemical Society;
r) NIOSH; and
s) Any other organizations or publications/articles received, which address occupational diseases or industrial hygiene concerns relating to asbestos.

24. Any and all documents that evidence any efforts or money dedicated to finding, developing or locating asbestos-free alternatives for any asbestos containing components sold by Defendant on or before 2001.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

EXHIBIT 10

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

REPORTER'S NOTE: Since this deposition has been realtimed and you may be in possession of a rough draft form, please be aware that there may be a discrepancy regarding page and line numbers when comparing the real-time screen, the rough draft, rough ASCII, and the final transcript. Also please be aware that the real-time screen and the unedited, uncertified rough draft transcript may contain untranslated steno, an occasional REPORTER'S NOTE, a misspelled proper name, and/or nonsensical English word combinations. All such entries are corrected on the final certified transcript. If the deposition has been videotaped, the real-time draft, if any, will be compared against the audio of the videotape in order to assure complete accuracy on the final transcript.

*****

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

realtime, I, the party working with understand that if I choose

to use the real-time rough draft screen or printout that I am doing so with the understanding that the rough draft is an uncertified copy. The real-time rough draft may be used in place of or in addition to my notes taken during testimony. Specifically, if I choose to cross-examine or prepare a witness by using a rough draft, I am doing so with full knowledge that the rough draft is uncertified and that I am doing so at my own risk. I further agree not to share, give, copy, scan, fax, or in any way distribute the real-time rough draft in any form (written or computerized) to any party. However, my own experts, co-counsel, and staff may have limited internal use of same with the understanding that I agree to destroy all real-time rough draft and/or computerized forms, if any, and replace same with the final transcript and/or final computerized form

upon its completion.

By accepting a rough draft transcript or a rough ASCII diskette, I am hereby agreeing to the above-mentioned terms, and I further agree to pay for these reporting services that have been provided.

ROUGH DRAFT

*****

STATE OF SOUTH CAROLINA — COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG — SEVENTH JUDICIAL CIRCUIT

JERRY CRAWFORD and EVELYN KAY CRAWFORD,

Plaintiffs,

vs. CASE NO. 2017-CP-4204429

CELEANESE CORPORATION, ET AL,

Defendants.

VIDEO

DEPOSITION OF: ROBERT GLENN, CIH, MPH

DATE: July 9, 2108

TIME: 10:01 a.m.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

LOCATION: 145 King Street
Charleston, SC

TAKEN BY: Counsel for the Plaintiffs

REPORTED BY: Roxanne M. Easterwood, RPR

VIDEOGRAPHER: Clint Thomas

ROUGH DRAFT

APPEARANCES OF COUNSEL:

ATTORNEYS FOR JERRY CRAWFORD and EVELYN KAY CRAWFORD

DEAN OMAR BRANHAM
BY: AARON D. CHAPMAN
302 N. Market Street, Suite 300
Dallas, TX 75202
(214) 722-5990
Achampman@dobllp.com

ATTORNEYS FOR DANIEL INTERNATIONAL, ET AL

HAYNSWORTH SINKLER BOYD, P.A.
BY: WM. DAVID CONNER
One North Main Street, 2nd Floor

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Greenville, SC 29601
(864) 240-3200
Dconner@hsblawfirm.com
Pbrown@hsblawfirm.com

ATTORNEYS FOR CNA HOLDINGS

PIERCE SLOAN
BY: M. TODD RAINSFORD
The Blake-Grimke House
321 East Bay Street
Charleston, SC 29401
(843) 722-7732
Toddrainsford@piercesloan.com

-- and --

HAWKINS PARNELL THACKSTON & YOUNG
BY: ASHLEY R. PRESSON
1717 West 6th Street, Suite 250
Austin, TX 78703
(512) 687-6900
Apresson@hptylaw.com

ATTORNEYS FOR COVIL

WALL, TEMPLETON & HALDRUP, P.A.
BY: MARK H. WALL
145 King Street, Suite 300
Charleston, SC 29401
(843) 329-9500
Mark.wall@walltempleton.com

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ATTORNEYS FOR AURORA PUMP

NELSON MULLINS
BY: ROBERT O. MERIWETHER
Meridian, 17th Floor, 1320 Main Street
Columbia, SC 29201
(803) 255-9469
Robert.meriwether@nelsonmullins.com
Carolyn.blackwell@nelsonmullins.com

ATTORNEYS FOR GOODYEAR TIRE & RUBBER

WOMBLE BOND DICKINSON
BY: KEITH MUNSON
550 South Main Street, Suite 400
Greenville, SC 29601
(864) 255-5412
Keith.Munson@wbd-us.com

ATTORNEYS FOR PARKER HANNIFIN CORPORATION
AND STANDARD MOTOR PRODUCTS

PROFFITT & COX
BYl RONALD B. COX
140 Wildewood Park Drive, Suite A
Columbia, SC 29223
(803) 834-7097
Rcox@proffittcox.com

PROCEEDINGS

* * * * * * * * * *

(Plaintiff EXH. 1, Notice of Deposition, marked for identification.)

(Defendant EXH. 1, Letter from Wall Templeton to Dean Omar Branham, marked for identification.) Defendant.

(Defendant EXH. 2, Defendant Covil Corporations Memorandum in Support of its Motion for Protective Order, marked for identification.)

VIDEOGRAPHER: Good morning. We are now on the record. Today's date is July 9, 2018. Time on the video monitor is approximately 10:01 a.m. This is the videotaped deposition of Robert Glenn in the matter of Jerry Howard Crawford and Evelyn Kay Crawford versus Celeanese Corporation, et al. Case number 2017-CP-4204429.

Counsel present, will you please state your names for the record.

MR. CHAPMAN: Aaron Chapman for the plaintiffs.

MR. RAINSFORD: Todd Rainsford for CNA Holdings.

MR. CONNER: David Conner for the Daniel and Fluor entities.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: And Mark Wall for Covil.

VIDEOGRAPHER: Thank you. And counsel by phone.

MR. CHAPMAN: We can agree they can appear on the stenographic record.

ROBERT GLENN, CIH, MPH

being first duly sworn, testified as follows:

MR. CHAPMAN: And, Mark, we agree today that this deposition is being taken pursuant to the South Carolina rules, and that objection by one is good for all.

So Madam Court Reporter, if someone objects you can put defense counsel. No need to identify them selves.

MR. WALL: We have marked three exhibits. Plaintiffs have noticed -- marked the notice and Covil has marked two letters, one from me to plaintiff's counsel asking them to comply with the rule concerning showing us all of the documents. Their reply letter said they have not yet decided what documents they are going to use,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

and the letter excuse me -- and our motion for protective order, which this deposition is being taken subject to that notice and notion.

MR. CHAPMAN: And I do have some

exhibits I brought with me today. I literally didn't know until last night. So if you want to see them ahead of time, let me know.

MR. WALL: We will. And as you know, under our rules we can discuss those documents.

MR. CHAPMAN: Sure.

MR. WALL: Okay.

EXAMINATION

BY MR. CHAPMAN:

Q. Okay. Good morning, sir.

A. Good morning.

Q. How are you doing?

A. Doing just fine.

Q. Will you please state and spell your name?

A. Yeah. My name is Robert Glenn,

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

R-O-B-E-R-T G-L-E-N-N.

Q. Mr. Glenn, have you ever been deposed before?

A. Yes, I have.

Q. How many times have you been deposed?

A. Probably four or five.

Q. And those four or five times, were they in asbestos-related matters?

A. Four of them were. One was not

asbestos.

Q. The one that was not asbestos, what was that?

A. It was a Teflon case, PFOAs, @ tetrafluoroethylene.

Q. The four that were asbestos related, in what capacities --

A. Well, in one -- one of those was coal related as well.

Q. Coal?

A. Yes.

Q. Okay. So in those in which you've

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

testified that were asbestos related, in what capacity did you testify?

A. I testified as an expert witness for the defense.

Q. Okay. And for what entities or corporations did you testify on behalf of?

A. Pfizer, Vulcan Materials, another stone company. And I think that's it. I can't think of the other one.

Q. When did you give those depositions?

A. They've been in the last four or five years.

Q. Do you recall the last time you were

deposed?

A. The last time was probably in the -- in the Dupont case. Yeah. I think it was a Dupont case. I'm not quite sure, which was a year ago, year, year-and-a-half.

Q. So some time 2017?

A. I would say so. Yes, sir.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay. And do you know in what jurisdiction those cases were?

A. Well, that one was in federal court in Columbus, Ohio. It was the Washington plant of Dupont related to its Teflon.

Q. And the others, do you know?

A. One was in a Baltimore court. And I can't recall the others. I'm not sure.

Q. All right. Do you recall who the lawyers you dealt with were in those cases?

A. I recall most of them, yes.

Q. Who were they?

A. Well, one was Michael Pichini with Goodell DeVries. I worked with a lady on the Dupont case. I can't think of her name. I worked with Michael on the stone case which related to asbestos contamination in a quarry. And I worked with an an attorney from Kansas City on a coal

related case, and I don't recall his name right now.

Q. Okay. Have you ever testified at

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

trial, sir?

A. No. Well, let me correct that. I testified at court marshal while I was in the army.

Q. Okay. Hopefully it wasn't your court marshal?

A. No, it wasn't.

Q. Okay. All right. All right, sir, I have your CV. And we'll mark that in a second. Could you just give me kind of a thumbnail sketch of your educational background?

A. Yeah. My bachelor's of science degree is from Clemson University, and I have a graduate degree as a master of public health from the University of Minnesota, and I did some postdoctoral work but did not complete my doctoral theory.

Q. Okay. And you are a certified industrial hygienist?

A. I am.

Q. When did you become certified?

A. 1981.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. And is your certification current?
A. It is.
MR. CHAPMAN: I'm going to mark as Exhibit 2 your CV. I printed three copies of them. I didn't separate them. Here we go.
(Plaintiff EXH. 2, Glenn CV, marked for identification.)
BY MR. CHAPMAN:
Q. Okay. I'm going to hand you your CV, sir.
A. Thank you.
Q. Okay. This is your CV, true?
A. Yes.
Q. Okay. I want to go through some of these things, if we could.
A. Okay.
Q. First let me ask you. I see on here there are some publications?
A. Yes, sir.
Q. Are the entirety of your publications on this list?
A. There's one in or two in press now. One has been accepted. The other is still in

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

review.

Q. Other than those, is everything you've

published been in this CV?

A. Yes.

Q. Okay. And those two that are currently in press, what are their names and where are they going to be published?

A. Well, one I don't know the complete title. They're quite long. One's being published in the Annals -- what used to be the Annals of Occupational Health. They've now changed their name and I don't know what it is. It has something to do with workplace exposure. And the other one is -- has been submitted to the Scandanavian Journal of Occupational Health. Those deal with crystalline silica exposures.

Q. Both of them?

A. Yes.

Q. Okay. And would you be able to tell me who your co-authors were on those, if any?

A. Yeah. Dr. Pamela Bassett from the

University of Vermont, Dr. Jack Parker from West Virginia University, and Dr. Roy Rando from Tulane University.

Q. Okay. All right. On Exhibit 2 there under your professional experience, the first one is the principal of Glenn Consulting Group?

A. Yes.

Q. And it's my understanding, sir, that Glenn Consulting Group has more or less been hired by Covil Corporation for you to testify today?

A. That's correct.

Q. Okay. How long has Glenn Consulting Group operated?

A. Started out in 2010.

Q. And what is the purpose of Glenn Consulting Group?

A. Well, I primarily do research. And then I also do some expert witness, and I also do some public policy work in front of OSHA, the Mine Safety and Health Administration. And I have had

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

a small dip, small bit with the EPA.

Q. Okay. If you had to divide up your time for me, how much time you spend researching versus testifying versus doing the kind of work with OSHA you were talking about, what would that be?

A. Yeah. I would say the research is 75 to 80 percent. The witnessing is maybe 20 to 25 percent. And the balance is on public policy.

Q. Okay. How long have you been testifying as an expert witness?

A. For four or five years.

Q. Is this the first time, sir, you --

A. Well -- yeah, that's correct. About four or five years. Yeah.

Q. Okay. Is this the first time, sir, you have testified as a corporate representative?

A. It is.

Q. Let me back up and not get ahead of myself here for a second. So you are a CIH?

A. Yes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you have any training in medicine?
A. No. I have attended courses. While in NIOSH I was responsible -- I was the director of the division or respiratory diseae studies. And we had physicians working with us. We had biological scientists, industrial hygienists and statisticians. So I had to bone up on a lot of the medicine to represent my division.
Q. Okay. You were not a medical doctor?
A. No.
Q. All right. Have you been asked to evaluate this case from an industrial hygienist's perspective?
A. No, I have not.
Q. Okay. So I see you are currently --

back on your CV -- you are currently employed by Glenn Consulting Group?
A. Correct.
Q. And also you are a consulting scientist with Crowell and Moring?

A. That says present. That ended about two years ago. I need to update that.

Q. Okay. So it was from about 2004 to 2016?

A. Or, yeah, '15. I think we broke off then at some point.

Q. And you say we. What do you mean me?

A. Well, myself.

Q. Okay.

A. The only other consulting group is my dog. She stays under my desk.

Q. Are there any other principals with Glenn Consulting Group?

A. No.

Q. Are there any other employees at Glenn Consulting Group?

A. No. I work with colleagues, and as I mentioned, as we discussed. And I have a person that helps with research inputting data, but she's not an employee. I just pay her and give her a

1019 -- 1099 at the end of the year.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay. Does she do research for you or just input data?

A. Just input data.

Q. Okay. All right. Underneath that I see the president and CEO of the Industrial Minerals Association?

A. Yes, sir.

Q. I want to get into more detail about the IMA later, but can you kind of tell me what that is in general?

A. Okay. Yeah. Broadly I have, along with leaders from the industrial minerals industries, formed that group in 2004. I'm sorry, 2002. And we did it to bring together the diverse type of industrial minerals that had common issues related to business as well as regulatory affair and that type of thing. So we represented a number of commodities that were or are industrial minerals.

Q. And within industrial minerals, does asbestos fit that definition?

A. No. We did not have any asbestos in your group.

Q. Okay. Why not?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. We did have talc.

Q. Okay. Why talc and not asbestos?

A. Well, talc, largely cosmetic talcs and all, don't have asbestos in them or asbestos form minerals in them, and that's the reason we were representing. Their ore was processed, refined, marketed into -- to go into other common items like industrial minerals, such as kaolin or bald clay or things of that nature.

Q. Okay. Sir, at any point in your career did you work for Covil?

A. No.

Q. Before you were contacted about this case had you heard of Covil?

A. No, I had not.

Q. Okay. So I'm interested in kind of learning how you got hooked up with Covil here. Did someone reach out to Glenn Consulting Group for that purpose?

A. Yes. A firm that looks for experts for law firms.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Who is that?
A. I'm bad with the names. It's -- I would have to look that up. It's -- I think the person working for them, they're out of New York,

but I think this person was out of California.
Q. Okay. When we take a break, if we could look that up.
(Discussion off record.)
Q. Okay. Is that a firm that Glenn Consulting Group hired to place it, or how does that work?
A. No. I sent in my information to them at one time and this is the first case that I've ever gotten from them.
Q. Okay. When did you first have contact with them?
A. Probably four years ago or so.
Q. And I guess that firm works on some sort of commission?
A. I suppose.
Q. Do you know how they get paid?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No.

Q. Okay. So that firm called you and said, hey, would you be interested in working for Covil?

A. Gave me brief background on the case but not anything in detail.

Q. Do you know when that first contact happened?

A. It was in June I'm pretty sure.

Q. June of this year?

A. Yes, June 2018.

Q. Okay. And is that the first time that you've heard of the Crawford case?

A. Yes.

Q. Is that the first time you ever heard of Covil Corporation?

A. Yes.

Q. At what point, sir, did you agree to be the corporate representative for Covil?

A. It was about two weeks ago or two to

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

-- two weeks and one day maybe. So it's been a fast learning experience, believe me.

Q. And I want to be clear in any of my questions. I don't want to know what you said to Mr. Wall or his office or what he said to you.

When was the first time you spoke with attorneys for Covil?

A. It would have been probably two weeks and a day or two ago.

Q. Before you agreed to be the Covil corporate representative did you speak with any attorneys for Covil?

A. Before I agreed, yes.

Q. And do you recall who you spoke with?

A. I spoke with Mr. Wall.

Q. And do you recall how long you spoke with Mr. Wall, how many times?

A. It wasn't that long of a conference call. A representative from the expert group was on, too. And it was maybe 30, a minutes. She already had my CV and stuff, and I suppose she had

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

seen that.

Q. Okay. Do you know, sir, why you have been chosen as the corporate representative to talk to me today on behalf of Covil?

A. No, I do not.

Q. Are you familiar with Covil and its history?

A. I've been getting more familiar with them in the last two weeks, yes.

Q. Are you prepared to talk to me today about Covil, its history, its work?

A. I am, yes.

Q. All right. So I'm going to kind of dig a little bit more into that. So let me just be clear. You understand that you are here as Covil's corporate representative?

A. I do.

Q. Okay. And are you being compensated to be here?

A. Yes, I am.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. How are you being compensated?
A. Hourly fee.
Q. And what is that fee?
A. My fee is -- for litigation work is $415 an hour.
Q. And does that change depending on what kind of work you're doing?
A. No.
Q. Okay. Do you charge any sort of daily minimum?
A. No.
Q. Did you charge Covil a retainer in this case?
A. No, I did not.
Q. All right. Okay. So I want to know, sir, what you did in the last two weeks to prepare for this deposition?
A. Okay. Well, I reviewed some depositions of Mr. Palmer Covil and Mr. James Covil. I read and I looked through and studied their exhibits to their depositions, and I read a summary of Mr. Crawford's deposition. Looked

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

through some other materials of some 24,000 documents that we have. And I searched some of those related to this Celeanese case, this Spartanburg case and read through those. And that's pretty much it I would say.

Q. Okay. So the 24,000 documents that you're talking about, did you look at each one?

A. No, I haven't yet.

Q. How many did you look at?

A. Well, what I did since this was related -- only dealt with the premises at Spartanburg Celeanese, I word searched Celeanese, pulled out all of those.

Q. And how many documents did that yield?

A. I forget. It was not a large amount.

Q. What would your best estimate be?

A. Probably 100 pages at most. I'm not sure.

Q. Okay.

A. Yeah.

Q. Did you review those 100 pages?

A. I did look through those, yes.

Q. And how long did that take you?

A. Pretty much a day or so I would say.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

25 Q. And how long did it take you to pull

1 out those 100 pages from the 24,000?
2 A. Well, we did that through -- with the
3 paralegal here. She pulled all of those for me.
4 These documents are in a system called Next Point,
5 and I'm not very fast with Next Point. I need
6 some training, and they have tutorials that I'll
7 probably have to get on, because I can't do
8 complex searchs with it. I can only do one word
9 search terms, and that's kind of a hindrance.
10 Q. Okay. So you did not personally
11 locate the documents you looked at?
12 A. No. I have the 24,000 documents
13 though.
14 Q. You haven't looked at them?
15 A. I did the search. I did the Celeanese
16 search myself with the one word Celeanese, and I
17 may have searched Celeanese Spartanburg. I think
18 I got pretty much the same number. Like I say, I
19 better get up to speed on this thing.

Q. All right. So what I have you doing to prepare is you read Palmer Covil's deposition?
A. Yes.
Q. How many volumes did you read?
A. I read all three.
Q. Okay. How long did that take you?

A. To read them and study them and when I see something I'd want to research it. So it took a good bit of time. Two, three days at least maybe.
Q. And when you said you wanted to research it what did you do to research it?
A. When I'd see an exhibit mentioned I'd go read that exhibit.
Q. Okay. And also Jim Covil's deposition?
A. Yeah. There were two.
Q. When?
A. Both in 2018. One in February, one in March.
Q. And did you look at all exhibits to

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

both their depositions?

A. I looked -- I'm pretty sure I looked at all of them. When I see exhibit I'd go look at it so I know the context of what the dialogue is about.

Q. @@and you said you read a summary of Mr. Crawford's deposition?

A. That's correct. I don't have his deposition.

Q. Okay so you have not read the entirety

of it?

A. No.

Q. Do you know who prepared the summary of his deposition?

A. I don't think there's any, any person's name on the preparation of that summary.

Q. Who gave you that summary?

A. It came from Mr. Wall.

Q. How long was that summary?

A. It was maybe 15 pages. It wasn't very

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

long, if that.

Q. Do you have that summary?

A. Not with me.

MR. WALL: It's GEF end your expert.

THE WITNESS: Are you sure that's it.

MR. WALL: Uh-huh.

BY MR. CHAPMAN:

Q. Well let me just ask you, sir,?

MR. WALL: Yeah.

THE WITNESS: Yeah.

BY MR. CHAPMAN:

Q. Is that the summary you reviewed?

A. Yes it is 12 pages.

Q. Okay okay?

MR. CHAPMAN: We'll go an aan I head

and mark this just so we have it if that's okay.

MR. WALL: Sure as I said it came from your expert.

(Plaintiff EXH. 3, Deposition Summary of Jerry Crawford, marked for identification.)

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay all right, sir so in review of that summary what were you able to learn about Mr. Crawford?

A. I learned he had a quite an interesting work career but as far as it relates to Celeanese, I learned that he worked on the batch line and that they were they were putting in a continuous Poly line, Daniel construction was doing work. That he worked for several weeks on the continuous line once it got started, it appeared as I recall that's the first continue you line they put in. And then he went back to the batch line. He said there was some dust that he cleaned up. He did not say it was asbestos dust or anything but he said there was some dust he cleaned up. And he said that you know the Daniel people were working in there while he was there.

Q. In reading summary sir, did you see anything that Mr. Crawford said that Covil thinks

is correct or incorrect one way or the other?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I didn't see anything at this time that I think Covil would reject or dispute.

Q. Is there anything in here I mean you're an industrial hygienist is there anything in there that he said that you thought was impossible or wouldn't happen?

A. Well, I'm not speaking for Covil now. I'm going to speak as an industrial hygienist. In a plant specially a sophisticated company like Covil I final it hard. He said that the operation I'm sorry sophisticated like Celeanese. He said that the that during the work there was no barrier between the continuous line they were putting in and the batch line and I would fine that a little difficult to think would happen with a company like Daniel subpoena a company like Celeanese. But that was his what he says in his deposition.

Q. So we'll dig into that in a little bit but Covil has no position on that one way or the other?

A. I have not seen anything yet in my reviews that would indicate whether there was a bare er or not.

Q. Barrier?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. All right. I think it's clear but just to kind of take care of a little more house keying matters. Other than what we've talked about did you review any documents in preparation for this deposition?

A. No those were the ones that were in went and looked at.

Q. Okay and just to the extent it pay be different in your capacity as corporate representative trying to learn Covil did you review any other documents?

A. Well, no. I mean, I cam think of any that were exhibits you know.

Q. All right. So sir,, jumping around on you a little bit. Back to your work as a consulting scientist for KRAU what were you doing there?

A. I was in the litigation group and I was in-house consulting scientist. I would help them with cases. I would read depositions, do summary s, do reports on medical aspects of depositions and things of that nature and you know

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

that was pretty much it. I was just scientific litigation support.

Q. Okay. If it's the same crawl I'm

thinking of it's a huge law firm; is that right?

A. I's large lump yes.

Q. All right do you with know if they're involved in asbestos litigation defend, they are?

Q. Did you ever anticipate in that?

A. Yes, I did.

Q. WUL that be on behalf of the same entities that you've already told me about?

A. No.

Q. Okay what entities would that be?

A. You know, as since this was I'm not an attorney of course. And since this was attorney-client privilege work that I was doing for the attorneys I'm not sure we should get into that.

Q. Okay are you not going to answer that question?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Well what I'd like to do is ask attorneys at KRAU flooring should I answer that question.

Q. I understand but sitting here?

A. I don't want to break any -- you know, any confidentiality with the clients of a firm that I enjoyed working with and respect.

Q. I understand. So as you sit here

today you're not going to answer that question?

A. I'd rather -- no.

Q. Okay. So last night I went on Crowell's website when I saw your CV and I just want I pulled some documents. I just want to show you?

MR. CHAPMAN: I'm going to mark this as Exhibit 4.

(Plaintiff EXH. 4, Crowell Moring Chart 1 Company Name and Year of Bankruptcy Filing (Chronologically), marked for identification.)

MR. CHAPMAN: There's copy of it.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay this is the marked copy all right, sir I'll represent to you that like I said I pulled this off the internet last my subcontract of it's three page document it's end TOOD I chart one --* and it has the KROUL KROUL LOEG at the top?

A. Uh-huh.

Q. Have you seen this before?

A. No I have not.

Q. Let me just ask you sir, have you been involved in any asbestos bankruptcy litigation for Crowell?

A. No.

Q. Did you work ever as a testifying expert witness for Crowell?

A. No I was a non testifying expert.

Q. Okay. Have you ever to the extent that you're that you think you're able to tell me, have you ever testified or work on behalf of any of the entities listed in Exhibit 4?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I don't see any of these that I've did any work for related to asbestos.

Q. Okay and how long did you work for Crowell about ten years?

A. No from 2004 to well I moved down here in 2010. So I was in-house for that period and then we still had an agreement that I would work for them but it became where I was doing less and less so that's why we terminated. But I was living here for some of those years.

Q. Okay and while you were there what office did you work in?

A. I worked in the Washington D.C. office.

Q. Okay. Did you ever visit any other Crowell offices or just stay in D V?

A. No I stayed in D.C.

Q. Okay do you know a Crowell lawyer named Mike MREF end I VI the's in San Francisco RN no?

Q. No?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I may have heard of him but I don't know him.

Q. Name sound familiar?

A. That's what -- when you said that I thought, yeah.

Q. It rings a bell?

A. Yeah.

Q. Okay.

MR. CHAPMAN: All right I'm GORP mark this as Exhibit 5 I went online LS night and I found what I think is your LinkedIn profile.

THE WITNESS: They haven't pulled that down yet.

MR. WALL: Let me state for the record even though we're not breaking and viewing the documents which we're allowed to under the rules by not doing it at this time I'm not waiving my right to later on break and discuss privately with the good doctor any documents shown.

MR. CHAPMAN: If you want to break please LETSD do it.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: No no no not right now I just we'll get to I just don't want by not calling them aside I'm not waiving future use of my right under the rules.

MR. CHAPMAN: Okay I understand that's your position frankly my understanding of the rules if you us don't do it waive it.

MR. WALL: Then hand me all of your documents we'll go take a break.

MR. CHAPMAN: Okay we'll do that.

VIDEOGRAPHER: Off the ROFRD we'll now go off the record the time on the monitor is 1032:00 a.m.

(Plaintiff EXH. #, DESCRIPTION, marked for identification.) 6.

(Plaintiff EXH. #, DESCRIPTION, marked for identification.)

(Plaintiff EXH. #, DESCRIPTION, marked for identification.)

(Plaintiff EXH. #, DESCRIPTION, marked for identification.)

(Plaintiff EXH. #, DESCRIPTION, marked for identification.)

(Plaintiff EXH. #, DESCRIPTION, marked

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

for identification.).

(Plaintiff EXH. #, DESCRIPTION, marked for identification.) 12.

(A recess was taken.)

VIDEOGRAPHER: We're now back on the record time known monitor is 1047 a.m.

BY MR. CHAPMAN:

Q. Okay took a little break for you to review the documents with your counsel?

A. Yes.

Q. Ready to continue?

A. Yes.

Q. Okay. Great. All of those documents -- well, most of them. Not the Covil ones specifically. I just found on a quick Google search last night and just trying to figure out a lit bit who you are. So let me ask you about Exhibit 5 which I believe is your LinkedIn. Can you --

A. Yeah.

Q. Is that what that is?

A. You didn't get this off the Covil site.

Q. No?

A. I'm in LinkedIn, but I guess I did put it up there. So I must have. Yeah. I don't

remember it. I don't fool with that anymore.

Q. Right and you know I that is you that's Glenn Consulting Group?

A. That is. Yes.

Q. Okay. And what just one thing I wanted to ask you about in the second paragraph there?

A. Yeah.

Q. It says Bob DEFRed as president and CEO of the Industrial Minerals Association a trade association representing the interests of the industrial minerals industry. True?

A. Yes.

Q. Okay. And is that something you still do?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No.
Q. Are you still involved with the I MA?
A. They engage me to do some work public policy type work at times but you know it's not a significant amount of time I'm working with them now.
Q. What kind of work do you do when they engage you?
A. They've had me comment on some documents or proposals by regulatory agencies and

by NIOSH and I may have done one for them for the EPA.
Q. Which regulatory agencies?
A. Well main ones I've worked with Mine Safety and Health Administration. The and OSHA and I think I had one issue on EPA.
Q. Okay. And one 0 of the minute TRALs involved or one of the industries involved was talc?
A. Yes.
Q. Okay. You can put that aside?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. I'm going to ask you about Exhibit Number 6 real quick.

A. Okay.

Q. Would you be able to tell me what that is?

A. Yeah. This is just to look at it. Yeah. Yeah this is a company that I tied up with Glenn Consulting Group and they were looking to do some work in hydraulic fracturing for oil and gas. They had a piece of equipment they were they were touting as to be able to clean workers clothes from crystalline silica dust and it never went anywhere.

Q. Okay. I saw over on kind of the

second column there the second paragraph down?

A. Yeah.

Q. LAL and Hardie silicosis prevention advisors is directed by Bob Glenn, MPH, CIH. Is that you?

A. Yes that is.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Continues: The worlds's leading expert on occupational lung disease and health effects of mineral dust exposure?

A. Yes yeah tried to get them to soften that they wanted to keep it in. Yeah okay.

Q. Do you consider yourself the word' leading expert on occupational lung diseases?

A. No I don't.

Q. They were sure nice about this?

A. Yeah right.

Q. What was the importance of removing silica lead and other dust from clothes with this continue trap shun?

A. Well silica it's not so much an issue of carry on but if you get contaminated clothes and just if you take your gloves and slap the dust off of you or brush it off or something you can actually get a peek exposure and I'm speaking as an industrial hygienist now not from Covil. And

we could see that using direct money direct reading instruments. We can do a helmet KAM of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

what the worker is doing and sump and you can see the spike on the direct reading instrument.

Q. Would that be the same for asbestos dust?

A. Yes you could get asbestos dust generated from clothing and there is a take home issue there as you know.

Q. Okay. All right you can put that aside. I just trying to see wine cough what order I wanted to do it in.

Q. Just kind of as a point of interest something you just said. And only because I know this that someone from Crowell on their weather barrier posted an article about how take home article really wasn't a thing in asbestos litigation, how it should in be. To the contrary that I guess you believe that there can be take home exposure?

A. I haven't seen it in Crowell. But yes, you can have @para occupational exposure with asbestos, and it's mainly -- the hazard in my opinion relates to the amphibole forms of asbestos.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay. All right. I'm going to hand you sir, what's been marked as Exhibit 8. Do you recognize that?

A. I do.

Q. What is this?

A. This is an article that I wrote while I was with Crowell morning. There was a big controversy and unfortunately it still goes on even know OSHA decided the controversy was over in 1992 but there's controversy about what are asbestos form minerals and what are non asbestos form minerals and the health outcomes of the two exposures.

Q. And what are the conclusions you draw in this paper?

A. I draw that they should use a mineral definition when they talk about asbestos and not what has turn out to be a definition of a federal fiber being three to one aspect ratio and longer than five micrometers. You can have a lot of E long gate mineral particles and cleavage fragment that will meet that definition and they're not

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

asbestos and they don't have the properties of asbestos and it's even more important they don't have the biological outcomes as asbestos as OSHA

clearly put out in their 1992 final rule.

Q. And I think I saw in here and I might be confusing two of these documents but in here do you criticize the.1 fiber per CC exposure limit?

A. No I don't.

Q. Okay. I see that some of the authors that coauthored this with you include RJ Lee and Drew Van Orden?

A. Correct.

Q. Okay. Do you know the personally?

A. I know them well, yes.

Q. And do you though that they testify as experts on behalf of defense in asbestos litigation?

A. Yes, I do.

Q. Okay. And again I just read through this quickly anywhere in here is there a conflict of interest statement or anything like that?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Let me just object you're asking him his personal deals having nothing to do with Covil, correct?

MR. CHAPMAN: I think it goes to his bias one way or the other.

MR. WALL: All right.

THE WITNESS: I'm not sure there was.

I don't know if there was a disclosure. This is not a peer reviewed literature.

BY MR. CHAPMAN:

Q. Generally do you put conflicts of interest disclosure in your papers RN in scientific papers yes?

Q. Okay not in this?

A. No I don't think I did but it's kind of a poor copy.

Q. Would you not consider this a scientific paper?

A. It's scientific writing. It hasn't undergone peer review. So it would have less

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

credibility than in the scientific community.

Q. Okay understood. I saw in one of these documents we may not have gotten to it yet that you also worked as a lobbyist for the national stone association?

A. I did.

Q. What's that?

A. Oh national stone no I've never worked lobbyist national stone I was lying national of another group Dr. What REES the other group.

A. National mining association.

Q. Okay what is the national mining

association?

A. They represent mainly coal and hard metals the metals industry in the United States.

Q. And how long did you lobby for them?

A. I was for a period during which the mine safety and health administration was looking to lower the permissible exposure limit for coal mine dust.

Q. Okay. Have anything to do with

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

asbestos?

A. No.

Q. All right. Okay. You said before that you have testified or have worked on behalf of companies in public policy a recent machines?

A. Yes I have.

Q. Have you ever testified in front of statetive bodies?

A. Yes I have.

Q. Which ones?

A. There are two. Actually Texas I did not testify but I did testify in Missouri.

Q. Okay and I think that's the one I have?

A. Yes.

Q. Which is Exhibit 7?

A. Yeah I saw that.

Q. I'm going to hand that to you?

A. Yeah.

Q. And Exhibit 7 is two pages. At the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

top it says HCSHB512?

A. Yes.

Q. Asbestos and silica claims priorities act?

A. Yes.

Q. And then on the second page midway it says testifying for the bill were representatives separate Robert Glenn mark Behrens, others true?

A. Uh-huh yes.

Q. Do you know mark Behrens?

A. Yes I do.

Q. Have you worked with him before?

A. I have worked with him while at Crowell and I met him he was orally with Crowell and that's where I first met him and he's now with shook HAR DI.

Q. All right and so you did testify here?

A. Yes.

Q. Okay and what was the suggest of your testimony?

A. Don't have the slights with me of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

course slides slides but this had a lot to do with the reform to reform legislation going on in the states at that time and this bill was trying to separate or differentiate you know what should be claims that would go forward and not.

Q. So what was the purpose of your testimony?

A. To talk to him I actually only talked to them about the medical aspects of silica. I didn't I don't think I talked about asbestos.

Q. Okay. Do you have -- I think you said slides. Do you have any slides from that or anything like that?

A. I don't have them now. I'm not even sure I used slides.

Q. Okay and given your testimony like it says in there you were a propoint of this bill?

A. Yes.

Q. You were supporting it?

A. I was in favor of the bill, yes.

Q. Okay all right any other times that you have testified on behalf of or not on BEZ hall of but in front of as state electric tiff body did?

A. I did in Maryland.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. For what?
A. Related to recreational fishing.
Q. Okay. Anything else related to asbestos or silica?
A. No.
Q. What about a federal electrictive body?
A. I have appeared but with Dr. Machine particular who was the direct of NIOSH and answered some questions I by didn't have the testimony didn't give any testimony.
Q. What kind of questions did you answer there?
A. Ones TATS he couldn't answer related to technical aspects of asbestos. This was an asbestos hearing.
Q. And do you know when that was?
A. It would have probably been in the mid 80s I would guess.
Q. Okay. And do you know which body or

committee you testified in front of?

A. It was a house committee. I don't know which one. It was one dealt with OSHA any more SHA.

Q. Okay?

A. No that's the senate they don't call it health committee but I don't recall.

Q. It was a house committee or an estimate committee?

A. House.

Q. House. Okay and the last one of these I think I have is Exhibit 9 I'm going to hand to you.

A. Yes.

Q. Do you know what this is?

A. Yes.

Q. What is it?

A. This is some comments I submitted to NIOSH when they were developing a document they called the NIOSH road map.

Q. And what was the purpose of the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

comments?

A. Again, it had to do with this, as I recall. And I didn't read this that closely. So, but I couldn't have, but I think that most of it was again related to the definitions and the -- the definitions of asbestos and what is asbestos and what is non-- nonasbestos form minerals. And again, I have couldn't read it, but it may have -- I may have had something about it that there's not

scientific evidence that the nonasbestos form minerals could cause the same biological outcomes as asbestos.

Q. And it looks like you submitted this on behalf of the coalition for litigation justice?

A. Correct.

Q. What is that?

A. That was a group that KROOUL morning formed among some of the larger insurers and Paul Kalish is I believe was headed that up for Crowell.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. And so this is a group that defense firms and insurers formed?

A. Insurers yes and defense, yes.

Q. And what was the purpose of the coalition for litigation justice?

A. As it SEDZ, to get litigation justice related to asbestos claims.

Q. And is this an organization that you supported?

A. I put these comments together for them. I didn't I don't know what their other business model was but they did they were interested in the in science as well and that's why I helped them with this.

Q. Okay did you do any other work for the coalition?

A. Yes this article that you gave me previously.

Q. Exhibit 8?

A. Yeah was they're the ones that asked me to write that article.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay and that was the one you coauthored with RJ and drew drew?
A. Correct.
Q. Did they funD that paper?
A. Yes they I billed my time for that paper, yes.
Q. Did this coalition fund any other work of your?
A. No.
Q. Did you receive funding sir, from Crowell for any other of your work?
A. Wealthy other of my work.
Q. Wealthy papers or studies that you did?
A. I don't recall any that were published that I did.
Q. Okay only your consulting?
A. They were internal papers, internal

reports and such.
Q. Okay all right and just before I move

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

on you said a couple times boast when your were testifying before the Missouri house and in your papers and in your comments to NIOSH you believe that there were for lack of a better word discrepancies between what should and should not be considered asbestos form?

A. Not only I believe that. Majority of the scientific community believes that.

Q. Okay. Could you give me kind of just a thumbnail of what that is, what your view is on that?

A. Yeah again there are minerals that asbestos minerals can occur in a asbestos form habit which has disticket properties. It's used for certain things and they can occur in nonasbestos form habit. OSHA they it's part of the rule in 86 asbestos standard was remanned to OSHA and they came up and they had hearings and submission to the docket in 1990 and hearings that went on for over a week. There was compelling evidence that these nonasbestos form minerals should not be regulated as asbestos that OSHA decided you can distinguish them from asbestos.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

They decided that they don't have the biological outcomes and they considered they should be regulated more as a nuisance dust or particular ats not of NIOSH regulated. And unfortunately that controversy is still going on today but it's just not my opinion. It's opinion of a host of people.

Q. Okay. Changing gears a little bit. I want to talk to you about a little more in depth about Covil's documents?

A. Okay.

Q. You say you received approximately 24,000?

A. Yeah.

Q. Okay. The 100 or so that you reviewed what kind of documents were they?

A. They mainly I forget right now I'd have to refresh my memory but they mainly dealt with the premises work that went on at Celeanese Spartanburg facility.

Q. Okay. And?

A. You have the 24,000 documents.

Q. What information were you able to

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

24 understand from those documents?
25 A. I haven't drawn really any conclusions

1 yet from it but it.
2 Q. And why is that?
3 A. Well I haven't finished my research.
4 I like to dig into things pretty deeply. But
5 again, from what I could see, they were at the
6 plant to develop a to put in this continuous Poly
7 line and evidently it was its first one because it
8 was Poly line one and they already had a batch
9 line. Daniel was doing the work on that Daniel.
10 It took place for about three or four years. And
11 that was a time when Mr. Crawford was working on
12 the batch line. And the Covil was listed on a
13 document that had both the contractors and vendors
14 listed and they show up evidently as a vendor for
15 that job.
16 A. Not having any of their personnel
17 doing any of the actual insulation work.
18 Q. So that was going to be my next

question what were you able to understand I about Covil's involvement with Celeanese Spartanburg?

A. They seemed to be a supplier at Celeanese Spartanburg.

Q. Okay during what time period?

A. I think it was 70 to 74.

Q. And what were they supplying?

A. I didn't see records or if I did I don't recall what actually they might have sold to Daniel during that period.

Q. Well what did Covil sell generally?

MR. WALL: Object to the form of the question.

THE WITNESS: Covil sold asbestos products such as magnesium block, other types of block. They sold blankets that were fiberglass line but they had a cloth cover which was asbestos textile. They sold cement binders things of that nature.

BY MR. CHAPMAN:

Q. All right so let me ask you it's my

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

understanding, sir, that it's Covil's position they don't have documents preI think 1973?

A. There was a fire in 1973 at their warehouse and their office building. Their records were being stored in the warehouse and that was because they moved they moved the records there to make space for office workers. And so the fire consumed essentially all of those records in the -- in that part were a total loss. They did have some records in a vault, and the only thing I could find on those yet at this time is

they related to some payments and such, maybe a journal of -- accounting journal.

Q. Okay and how is it that you know that?

A. How do I know about the accounting journal.

Q. Well about the documents generally why they were moved somewhere in the?

A. It was in a deposition. I think Jim Covil was the one that said they moved there

because of that. Might have been Palmer.

Q. Okay so everything you know about that was gleaned from E very Jim or Palmer Covil?

A. Yes.

Q. Their depositions?

A. Yes.

Q. Have you heard of a man sir,, named may continue three carpenter MA C H E N?

A. No I have not.

Q. And I may be mispronouncing that?

A. Yeah no I have not.

Q. Okay know who he is?

A. No.

Q. I'll represent to you sir,, I just came across his deposition yesterday. And it appears he worked at Covil for about 25 years. In

a variety of different positions. And I'll represent to you that he says that the pre1973 docks weren't destroyed in the fire but there was a firewall in the wall like you said that protected the documents?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Do you flow anything about that?

A. That's not what I read from the depositions because it was clear that they had been moved into the warehouse area. I don't know if the construction warehouse it play is have been a metal building. The office was built up front and they were needing office space and the documents were moved in there.

Q. Okay and Palmer said that?

A. I think it was Palmer's deposition, yes.

Q. Okay. Do you know what documents were moved are you able to tell me that?

A. All of the documents related to purchase invoices things of that nature. I don't know the details of it but the only thing it SID was left over and I'd have to go back to the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

deposition was some financial type records that were in a VAUL.

Q. And what kind of records were those?

A. Again I think they were more of a journals accounting type journals entries of things related to the business.

Q. And I guess I'm confused what do you mean accounting type journals?

A. Well when you you know pay for something or you have income coming in revenue coming in you keep that generally in a journal as I understand it. I'm not an accountant.

Q. Okay do you know if that would have had any information about what supplies were bought or sold?

A. I do not. I have not seen it.

Q. Okay. Do you know well he me. Has anyone asked you sir, as a corporate rep to kind of dig into this?

A. Quell yes as again with two weeks starting I have this is as far as I've gotten right now.

Q. Okay. Two weeks?

A. Yeah.

Q. Two weeks wasn't enough time?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Yeah.

Q. In preparation as a corporate representative or for the deposition did you speak to Jim Covil?

A. No I have not.

Q. Do you know did you ask to speak to him?

A. No I have not.

Q. Have you spoken to anybody who actually worked at Covil?

A. We attempted to call Charles mechanic warter. He is living I think now in the Myrtle Beach area. Left messages. He has not called back. He has not returned our calls.

Q. Okay and Mac M C W H O R T, R?

A. Yeah and W is capitalized.

Q. All right have you tried to reach out to anybody else?

A. No but no those are the ones and Jim Jim's deposition of course he said he tried to reach Mr. Johnson I belief it is and he has

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

dementia.

Q. Did you try to reach Mr. Johns son?

A. No.

Q. Okay. Do you know where Jim Covil is?

A. No I do not. Not sitting here.

Q. Do you though what efforts if any Covil has made to try to fine anybody else beside Mr. Covil or Mr. Mac?

A. I don't.

Q. So in the cases sir, where Covil doesn't have records of certain years, do you know if Covil looks for records that other companies may have of its?

A. I don't know.

Q. Do you know if Covil in this case has sought records from Daniel or Celeanese or anybody?

A. I know there's some Daniel records in the 24,000.

Q. Do you know if when Covil got those?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No I'm not sure.
Q. Do you know if those are pre73 or post 73?
A. I think they would be post 73.
Q. Okay do you know if Covil has made any effort to ask Daniel for documents that it may have of Covil's pre73?
A. I don't know.
Q. What about Celeanese?

A. I don't know that either.
Q. Do you know if Covil has made any evident whatsoever to try to fine pre73 documents?
A. I think other than what's in what I E reviewed so far they've said they don't exist.
Q. And I understand that, sir,. What I'm asking you is do you know since Covil says they don't have them?
A. Yes, sir.
Q. Do you know if Covil has made any effort at OL all to try to fine them from another source?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I p don't.

MR. WALL: Object to the form of the question.

THE WITNESS: I don't.

BY MR. CHAPMAN:

Q. And we can dig into this a little more later as we go through. It's my understanding Covil more or less stopped supplying asbestos-containing pipe insulation about 73?

A. Yes in that timeframe, yes.

Q. Okay. If there was documents showing Covil supplies asbestos-containing pipe insulation in 1974 that surprise you?

A. I'd have to see them.

MR. WALL: Object to the form of the question.

THE WITNESS: Yeah I'd have to see that. Surprise me it could have been around that time 73/74.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay. I'll just represent to you sir, that Covil is in litigation in federal court North Carolina in a case called finch where there's some documents that a fire stone plan at issue where Covil was sprying asbestos-containing materials in 1974. Any of that information surprise you?

A.

MR. WALL: Object to the form of the question.

THE WITNESS: I would like to see the documentation.

BY MR. CHAPMAN:

Q. You haven't been shown that?

A. No.

Q. Have you been asked to look into that at all?

A. Not now.

Q. Okay.

MR. WALL: Object to the form of the question. This is aKOUT Crawford.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay. I'm going to change gears do you want a break or do you want to keep going?

A. We can keep going for a little while.

Q. Okay?

A. I will let you know if I need a break.

Q. Okay all right. Sir,, Covil was founded in 1947?

A. 47/48. I see both of those dateds.

Q. Okay. Do you know at any point and it was shutdown what the early 90s?

A. Yes 91.

Q. Okay anywhere in its history sir, do you know if Covil went through any name changes or anything like that?

A. Well, I can discuss their how they came about and some of their a sickings and things of that nature.

Q. Please?

A. As you say they were founded started business in 1948 as just an individual company. They incorporated in 1954. They had some acquisitions in 59. They acquired a company DASHG

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

I think and in the Taylor in Augusta. The Taylor acquisition they change they named that company industrial insulation. Later they wanted that company to do some work in North Carolina and there was already an insulation company in North Carolina registered to do insulation so they changed the name to industrial associates. They next let's see. So they bought those two companies. Then later the king company was selling was getting out of the asbestos insulation business and they bought two branches of keen Roxanne one in Birmingham Alabama one in Jacksonville. They had absorbed and I need to go back but I'll finish this first. They had absorbed the Augusta business merged it with Covil insulation. But they kept that name industrial associates inactive. So when they bought the keen business they used industrial associates. As that name again. Now they also they opened an office in greens borrow and originally it had a name Covil North Carolina and they later merged that into the Covil insulation company. They had warehouses in Greensboro and of course their

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

largest warehouse was in Greenville, South Carolina. They had offices branches in Wilson,

North Carolina, Columbia, Augusta. Of course they operated Birmingham and Jacksonville they had one in all ban any Georgia and I think that's pretty hutch covers their acquisitions and their plans and what they were doing as a business.

Q. Do you know, sir,, if Covil was ever purchased by another entity?

A. Covil purchased by, no, I do not.

Q. Do you know, sir, if Covil ever -- if any of its products were ever rebranded under another company's name?

A. No they were never rebranded under another name.

Q. WLAKT do you know if Covil ever rePRANDed another company's products under its names?

A. Yes they did.

Q. Okay and what were those products?

A. They were getting a product called

sure SHOD one shot I think it was. Which was an adhesive mixture and they branned it as Covil light and they had -- they would ship they sent bags with the Colilite to the one shot company. I think it was rubber I may be wrong no it's on quill and they shipped those and rock would bag

the material in leads Alabama into the bags marked Colilite.

Q. So you mentioned some acquisitions in 1959 were those DASHG and Taylor?

A. Yes.

Q. And what was DASHG what was that business?

A. I was an insulation company.

Q. And whether was that located?

A. In Columbia, South Carolina.

Q. And Taylor?

A. TALS was an insulation company in Augusta, Georgia.

Q. Okay. Was its head KWARLT sir, always

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

in Greenville?

A. Yes.

Q. Okay. Pre73/74 when Covil started making their pipe insulation asbestos free, prior to that?

A. When they were buying pipe SWLAGS.

Q. When they were supplying or otherwise?

A. They never made piping.

Q. When they were supplying or otherwise using asbestos-containing pipe insulation 1974/74 require to that?

A. Right of way.

Q. What percentage of its business dealt with best containing materials versus non asbestos-containing?

A. The insulation side that is the installing insulation and maintaining insulation stuff was about 60 percent of their business and 40 percent was the sales side of products.

Q. And of that insulation, was it all asbestos-containing in that timeframe?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No they had fiberglass as well.
Q. What about thermal systems insulation for piping?
A. For asbestos piping insulation, yes they sold that.
Q. And I guess my question sir, is pre73/74 of the piping insulation that it sold for thermal systems, what percentage of that would have been asbestos versus nonasbestos?
A. I do not know.
Q. Do you know if Covil has done anything to try to fine that out?
A. I do not know.
Q. Have you done anything to try to fine that out?

A. No.
Q. Okay. And when we talk about pipe insulation are we talking about am site insulation?
A. A BLEN of am site and chrysotile till

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

and some might have been only chrysotile till.

Q. And how DLO you know some of them might have only be chrysotile?

A. Because there were some manufactured at that time.

Q. Okay. And who manufactured though?

A. I don't know who manufactured the chrysotile only.

Q. And how do you know Covil sold those?

A. I said they may have sold chrysotile.

Q. Oh, you don't know?

A. No.

Q. Okay. What about cal-sil that would have been asbestos-containing?

A. Yes, they handled cal-sil.

Q. And when I say cal-sil I mean calcium silicate?

A. Yeah.

Q. Sir, when Covil sold asbestos-containing pipe insulation to someone

like Daniel or went to a job site how was it

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

shipped?

A. I read where they had their own trucks. So I guess they truck it to those locations. The other to my knowledge they would have the manufacturer ship it direct to a site where they construction was going on.

Q. All right do you know if they were boxed up or bagged up in any way on the way over there?

A. They would be boxed or bagged or in some type of container, yes.

Q. How DLO you know that?

A. Because I've read they would.

Q. Okay is that from Palmer?

A. Yes and you know just knowledge of how things arrive on a construction site.

Q. All right when they were shipped was there any literature that went with them?

A. If there was any literature provided we TLE merchanter it would have gone along with them.

Q. And do I know if there was any literature provided by the manufacturer?

A. I think in the early days it's

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

unlikely.

Q. Did Covil sent anything aon with them that was not provided by the manufacturer?

A. No, they did not.

Q. Did they contain anywhere on the product or with the product or on the packaging any sort of warnings?

A. There may have. It certainly is you know from late 60s into 70s companies would have started putting warnings on in 72 of course, OSHA passed their asbestos standard which had a simple warning was to be on products that said something they cautioned do not create dust inhalation of asbestos I a hazard very simple.

Q. Do you know if Covil put that on their insulation?

A. It would have been up to the manufacturer to put that on in my opinion.

Q. And okay so we're a little cross over here because I unyou are a SPRIL SPRIL and you're also a corporate rep so as a rep rep do you know

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

if that LANG WALG was on the insulation supplied we Covil?

A. Covil didn't put any on but it would have come from the manufacturers if they had it if

they put it on.

Q. Before Covil sold that insulation to someone else did they ever make sure that language was on the insulation?

A. In Palmer's deposition he said something of the nature that they would only put it sent it out in boxes of cartons that came from the manufacturer.

Q. They didn't alter it in any way?

A. That's what -- yes. That's what it did not.

Q. If it didn't have a warning they wouldn't put one on?

A. They would not. Covil's position was that it was up to the manufacturer who had made the product that test the product and put any type of cautionary language or warnings on the

material.

Q. Well so if that was Covil's position let me ask you sir, if Covil noticed that BAEN containing insulation post OSHA didn't have that warning what if anything would they do about it?

A. According to Palmer Covil they r they would sent it back.

Q. Okay do you though that that happened?

A. I do not.

Q. Have you seen any documents to that effect one way or NER other?

A. No.

Q. Sitting here today sir, can you tell me that post OSHA every piece of asbestos insulation Covil sent out had that worning on it?

A. I cannot.

MR. WALL: OEFRD.

THE WITNESS: I cannot tell you that.

BY MR. CHAPMAN:

Q. Can you tell me that the insulation

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

that it supplied to the Spartanburg facility from early to mid 709s if that had warnings on it?

MR. WALL: OEFD.

THE WITNESS: I cannot because I have not seen records of what they did sly, an invoice or anything that would relate to the materials they supplied to Celeanese.

BY MR. CHAPMAN:

Q. Okay?

A. Or to Daniel.

Q. Is that because the bulk of those documents would have been prefire?

A. I suppose, yes.

Q. What about sales documents from 73/74?

A. I haven't seen those yet. They're probably in the 24,000 documents if there are any.

Q. Do you know if Covil has them?

A. I do not.

Q. And that would have been post fire right?

A. Yes the fire as I recall was in May of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

73.

Q. And you haven't seen those?

A. No.

MR. WALL: Object to the form of the question outside the scope.

BY MR. CHAPMAN:

Q. Sir, how did Covil go about selling its products logistically would it do direct sales would it use dribblers how did that work?

A. Well they were a dribbler THEFL selves for some of the manufacturers. The only one they had an agreement with was 0 wents corning and that initial agreement expired and they never reI newed either party. I don't know which. But they represented them SECHs as being distributors of other manufacturers as well.

Q. How did Covil generate business?

A. I imagine they had well, they must have had salespeople certainly on the selling side that would probably call on companies and would

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

inform them of materials they had that they could that they could supply.

Q. I just want to be clear because you said I imagine. Do you know or is that something you're assuming?

A. I don't know. I know they had a sales department, but I don't know whether they went direct door to door sales or not, so to speak, door to door. You know, he grew the business to be quite a large business and he worked for some very large -- he did some very large projects. And I think the word gets around of who can do projects and who can't and he had the second largest insulation company in the southeast. So it's kind of like you know when you're looking for someone you they rise to the top.

Q. I think I've read some testimony somewhere that said something like if there's an SAGS job to be done Covil would have been the one to do it?

A. They would.

MR. WALL: Object to the form of the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

question.
BY MR. CHAPMAN:
Q. Have you seen something like that?
A. I don't recall that so much yeah I don't but I do know they you know I have seen documents where they were doing multiple dollar projects year for years and they had quite a revenue stream.
Q. Post OSHA sir, on the jobs that where Covil was physically present did it have any sort of policies to make sure that its workerses were complying with OSHA?
MR. WALL: Object to the form of the question.
THE WITNESS: They had some safety documents. One was put out by the National Insulation Contractors Association that dealt specifically with asbestos and use of asbestos in insulation. There are other documents, more generic documents that brought the safety program and -- but they did have that document and it was given to the workers and as part of their training so that they would know the precautions to take when using asbestos products.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. And when did that start?

A. I think that document was produced by my an in 73 but I'd have to check.

Q. Did Covil have any sort of written policy on what training was supposed to happen or how often or anything like that?

A. Yeah they had some as I said they had some safety manuals one in 67 and one in 77 but that was more of a broad scope of a safety program. And not directly you know targeted at asbestos and that's why I guess they picked up the not guess they picked up the NOOIK brochure and use it as their guidance.

Q. So let me ask you sir,, the safety handbook from 6 did that say anything about asbestos in it?

A. No it did not but again that was a generic document.

Q. WLAKT the one from 77 that say

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

anything about?

A. It did not either.

Q. Okay. And that' FIEFRSZ years after OSHA right?

A. Yes.

Q. Okay the NOOIK broach that you're talk

about can you SFEL that please?

A. Naggal insulation contractors association.

Q. What kind of information did that have?

A. It talked about you know the safe use of asbestos as a quite thorough document it was put together by the safety and health committee of the nation nation and it seemed to be as a coal employee I thought I was an adequate document.

Q. Have you seen the broach?

A. Yes.

Q. Does Covil have that brochure?

A. Yes.

Q. When did Covil pick that up?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I imagine soon after it was published. I don't recall the date but I've seen some invoices for those documents.

Q. And when were those invoices?

A. I say I can't recall the date sitting here right now. But there are some invoices I'm pretty sure that gave a date in which they purchased those.

Q. Did Covil have a require requirement that everybody who was working with insulation had

to read and have that?

A. That was their RIEFRMENT.

Q. And how DLO you know that?

A. It's not written down. Mr. Johns who was largely responsible for safety, it was his respondability to train workers when they came to work on safety. They also had an aapprentice program for slaters and so he was the one responsible nor the safety aspects of the program.

Q. And you didn't talk to Mr. Johnson?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No I have not.
Q. Okay so how DLO you know that Mr. Johnson used this brochure with Covil employees?
A. It was in Mr. Palmer Covil's deposition.
Q. Do you know if Palmer Covil talked to Mr. Johnson about this before his deposition?
A. I think he said he did.
Q. Did you make any attempts or did Covil make any attempt to try to find out some more information about these brochures in the Crawford case?
A. In the Crawford case, no.
Q. Okay. Solely what's in Palmer Covil's deposition?

A. Yes, sir yes.
Q. Were there any sort of consequences for a Covil insulator that did not have this document?
MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: I didn't see that. I did see that they there was some steps they would take or resident traitor wear I believe it was which would be you know warning, two warnings day off pay or week off pay term FAGS was last step.

BY MR. CHAPMAN:

Q. What specifically sir, would Mr. Johnson do with Covil slaters with this brochure?

A. I wasn't there at the time Mr. Johnson was. So I don't really know.

Q. Did Palmer Covil say in his deposition?

A. He said that used it in training the workers.

Q. And do you know how long this training was, when it took place, how long it was, anything like that?

A. I do not.

Q. And can you tell me a year that

training started?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Well it started I guess around the time of well he said during the insulator aapprentice program they also covered safety in that but then the first document I've seen is that 67 document.

Q. And the 67 document is different from this brochure?

A. Yes.

Q. So I'm asking about the brochure specifically. Do you know when Mr. Johnson started training on that, what year?

A. I do not. I wasn't there at the time Mr. Johnson was.

Q. Okay have you done any sort of work to try to fine out when he started training with that brochure?

A. What OOUF looked for or through this this far I have not seen.

Q. Okay but sitting here today you cannot tell me?

THE WITNESS: I cannot.

BY MR. CHAPMAN:

Q. Okay so 73/74 OEFL's pipe insulation

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

started going asbestos free?

A. Uh-huh.

Q. Well?

A. Well for a number of reasons manufacturers were taking it out of insulation. Some people you read that there was a ban or there was but there was no ban in OIT. That was voluntary by the companies. And so the larger companies because of litigation exposure were removing asbestos and substituting saver materials.

Q. And do you know why they were doing that?

A. Why the companies were?

Q. Yes, sir.

A. Yeah for exposure to litigation.

Q. Insulator insulator?

Q. POERS 73/74 Covil still sold some asbestos-containing materials right?

MR. WALL: Object to the form of the question go ahead.

THE WITNESS: That's what you're

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

representing to me.
BY MR. CHAPMAN:
Q. Do you have any information?

A. I haven't seen it yet I'm I I may.
Q. I'm not talking?
A. I may come across it.
Q. I'm not talking specifically people insulation but muds or gaskets or anything like that that were asbestos-containing?
A. Well I think they still continued to sell the one shot oz or Ear SLOOID that had one KWAR E or three percent asbestos is what I've read. They had some cloth asbestos cloth that they were using to make blankets fiberglass and they did that I think in the Greensboro operation and these blankets were us YOODZ for turbines and things where insulation has to come off for maintenance. And Mr. Covil said that they had been treated and had little if no dust exposure.
Q. You talk about Palmer or Jim?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Palmer.
Q. And do I know what they did to treat them?
A. I do not. I think I underfrom his deposition that they came treated from the manufacturer of the asbestos textile material.
Q. Do you know the last year sir, in which Covil sold any BRAES containing product?

A. I do not.
Q. Do you know if Covil has done anything to try to fine that out?
MR. RAINSFORD: Object to the form of the question.
THE WITNESS: I do not.
BY MR. CHAPMAN:
Q. Is there any way to tell from the documents you have?
A. There may be. As I said, in two weeks I haven't been able to get through them and but there may be.
Q. Sir, when we're talking about Covil's

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

asbestos-containing pipe insulation, whether it was doing the work or it supplied it to someone like Daniel, do you know if Covil recommended certain safety methods such as wetdown or respirators or things like that?

MR. WALL: Object to the form of the question.

THE WITNESS: I know that after the 72 standard they started mixing their the cements and stuff in plastic bags. They told the operators to be careful removing the material from the cartons and containers because it can have loose material

in there and to treat that very carefully. They also bought vacuum systems, and they had portable vacuum systems and they all also had -- they some local exhaust ventilation on their saws. So they did take some steps after the OSHA reg to provide federal practices to avoid exposur.

BY MR. CHAPMAN:

Q. And that was all in its plant?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Pardon.
Q. Are you talking about those are all measures taken in Covil's plant?
A. No I took those to be outside as well as far as mixing the cements as far as having saws that would have exhaust equipment and having vacuums that would pick up the material.
Q. And how do you know that happened outside the LANT?
A. I don't. How do I know what.
Q. That happened outside the plant?
A. I don't at this point.
Q. Do you with know if any of that happened at Spartanburg and when I say Spartanburg I mean the HURS Celeanese facility?
MR. WALL: Object to the form of the question.

THE WITNESS: I do not know. They weren't of course they were not installer at Celeanese. So they WUM in have had any clean up to do. That would have been the responsibility of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

probably the contractor Daniel.
BY MR. CHAPMAN:
Q. Okay.
MR. CHAPMAN: Object to no responsive portion doesn't mean your answer wasn't HEFLful not exactly what I'm getting at.
BY MR. CHAPMAN:
Q. Let me ask it this way sir,.
A. Well let me say you know if they weren't on site installing I don't know why they would have wanted they would have needed clean up of asbestos-containing materials.
Q. So again same objection?
BY MR. CHAPMAN:
Q. Let me ask you this way sir,. If it was a situation where Covil was just SCLIEing not installing did they provide any recommendations to someone like Daniel or other contractors or Celeanese LOIDZs or anybody like that about the proper way to work with their BAEZ containing pain SWLAGS?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: OEFTD.

THE WITNESS: I was the position of Covil that that was up to the manufacturer that they had the badge. It was their material they knew what was in the material if any testing needed to be done they should do it and they should be the ones informing downstream users.

BY MR. CHAPMAN:

Q. So if coal was on site it would take those precautions you've told me about?

MR. WALL: Object to the form of the question.

THE WITNESS: I haven't seen that documentation yet since you brought up the question. But I would assume they would. I mean if they were if they went out and bought this equipment and such I don't think it was just for their warehouse facility and their fabrication shop at the warehouse.

BY MR. CHAPMAN:

Q. Okay. So I understand you don't know that for a fact?

A. I don't I'll try and fine out how many vacuums they bought.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

25 Q. So if Covil knew to buy vaccums and

1 local exhaust and that kind of stuff, do you know
2 why they wouldn't pass along that information to
3 its customers?
4 MR. WALL: Object to the form of the
5 question.
6 THE WITNESS: I don't know. I don't
7 know why. I mean, it's up to the company that's
8 doing the work to maintain the safe and healthful
9 workplace it's up to me manufacturers to them them
10 what those hazards are. So I see it again as a
11 step for the manufacturers to tell the insulation
12 companies what they should be doing. Not Covil.
13 BY MR. CHAPMAN:
14 Q. So you think in this case, for
15 example, people like Daniel or Celeanese had a
16 responsibility for a safe worksite and
17 manufacturers for, as an example Owens Corning,
18 had no responsibility to place warnings on its
19 products?
20 A. That's correct.

MR. WALL: Object to the form.
ATTORNEY: Object to the form.
MR. CHAPMAN: I'm not finished with my question, People.
BY MR. CHAPMAN:

Q. What responsibilities if any did Covil have in that equation?
MR. WALL: Object to the form of the question.
THE WITNESS: Could you go through that again.
MR. CHAPMAN: I can and everybody can have their objection.
BY MR. CHAPMAN:
Q. So it's Covil's position sir, that people like Daniel or Celeanese had a responsibility to maintain a safe work site?
A. Right.
Q. That manufacturers like 0 wents corn or J M had a responsibility to warn about their

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

products. What responsible if any does Covil think it had in this process?

MR. WALL: Object to the form of the question.

THE WITNESS: To pass along the information a manufacturer would give them regarding how to use the material in then work site.

BY MR. CHAPMAN:

Q. Okay and if I understood you earlier

sir, you said Covil didn't co-that?

MR. WALL: Object to the form of the question.

THE WITNESS: They passed along whatever came with the material and that's the same thing. I mean I take I take Covil out of this step because it's again, manufacturer has to determine what they know about the product what are the ingredients, if it's any toxicology of that, and any of that type information is now required under the haz com -- I shouldn't say that

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

because --

COURT REPORTER: I'm sorry I didn't understand.

THE WITNESS: It's required by the haz com regulation. But it's up to them to take that information and pass it down to downstream user.

BY MR. CHAPMAN:

Q. So let me ask you this sir,. Covil was if not the LARLGer one of the largest insulation company I the southeast?

A. The second WLARJest.

Q. Second large everything who was the first largest?

A. North.

Q. Okay. Did Covil consider itself to be professionals in insulation ?

A. Yes. They certainly did.

Q. They knew the insulation business inside 0 and out?

A. They knew a lot about the insulation

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

business. As I said they had a LOL call million dollar contracts so they were doing something right for their customers.

Q. All right so if coal had that knowledge and that experience and the manufacturers didn't provide a warning cove saw why would in KOEFR pass that information along?

MR. WALL: Object to the form of the question.

THE WITNESS: I'm sorry. I said that they @would pass anything a manufacturer --

BY MR. CHAPMAN:

Q. Yeah and so maybe I asked my question in a confusing way.

A. Right.

Q. If Covil has that knowledge and experience as the second largest insulation company in the southeast and it knew about some of the hazards associated with asbestos insulation,

and those that information wasn't provided by the manufacturer why wouldn't Covil pass that along?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

THE WITNESS: I don't think it was an obligation of that company to do it again. It goes back to the manufacturer.

BY MR. CHAPMAN:

Q. I'm not even asking about you know legal application I'm asking if Covil had that information why wouldn't they just let their customers know?

MR. WALL: Object to the form of the question.

THE WITNESS: I don't think they well they didn't have to.

BY MR. CHAPMAN:

Q. So they didn't because they didn't have to?

A. That's right. At the well when you get to a breaking point we can take a break.

Q. Yeah we can do that?

A. If you're ready.

MR. CHAPMAN: Yes we're almost at lunch any way do you guys just want to break for lunch.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: I would prefer not to but it's up to you discussion off record.

MR. CHAPMAN: Do you guys want to take 45 minutes 1145 we'll come back at 1230.

VIDEOGRAPHER: We'll now go off the record the time on on or is 1149 a.m.

(A recess was taken.)

VIDEOGRAPHER: We are now back on the report this else the belle of mead unit number 2 in your video deposition today time on the monitor is 1237 p.m.

BY MR. CHAPMAN:

Q. All right, sir we just took a HORT break and know we're back. I understand that during the break you remembered the name of the company that acted as the intermediary between again consulting and Covil?

A. Yes, I SGLISDZ water is it.

A. It's the expert institute.

Q. How long have you been working with the institute institute?

A. Is is the first engagement I've had

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

I've received from them.

Q. When did you first have contact with them?

A. Probably four years ago. Four or five, yeah.

Q. Do you know where they're based?

A. I think it's a New York company, New York City.

Q. How did you get partnered up with the institute institute JS I think they sent me a query about you know we fine experts for litigation and send us your credentials?

Q. Do you happen to have any of that literature from them?

A. No, I don't.

Q. So just a couple questions because I think you're the only person I've ever talked to that's actually used that process. When you do that do they interview you first? How does it work?

A. No. They get a case, and I've @had

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

several complainants, and they send it to you based upon your qualifications. And to be honest with you, they sending these things that weren't up my line at all. So I finally got back to them and said you know if's not occupational lung disease, you know don't call me. So they got this one they called me.

Q. You ever been hired to consult or testify on behalf of plaintiff?

A. Only I applied to those but I did not get any feedback from the.

Q. Okay do you know any of your colleagues such as those you've written with do they use the institute institute or anything like that?

A. I don't know.

Q. Okay all right okay when we left off sir, we were talking about whether or not Covil had a duty or I don't want to use the word duty but had a responsibility to warn or otherwise put

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

warnings on its insulation that was then shipped to its customers do you recall all of that?

A. Yes.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. And from what I recall you said it was Covil's position that they did not have a responsibility to do that?

A. That's correct.

Q. Okay why?

A. It's not THAIR responsibility. They

don't have to do it. It's up to someone else two knows more about the product than them.

Q. How did Covil make that determination?

A. I don't think I don't know. I wasn't there when that was when that decision was made.

Q. Well how DLO you know it today?

A. It's in the depositions.

Q. Which depositions?

A. Of Mr. Palmer Covil.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Okay do you know what Mr. Covil did to make that determination at the time?
A. I do not.
Q. Do you know if they consulted a lawyer about that?
A. I do not.
Q. Is this all postOSHA?
A. He didn't I think in the deposition he didn't say whether it's preor post. Certainly they have other obligations post OSHA.
Q. Okay so if we're talking about preor post OSHA do you have any idea what Covil did to take the determination that they were not responsible for doing that?
A. I do not.
Q. Have you done anything to try toe

figure that out?
A. I have not as yet.
Q. Do you know if Covil has done to try to figure that out?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I do not know.

Q. So then HO how does Covil know it does not have that responsibility?

MR. WALL: Object to the form of the question.

THE WITNESS: I'm mote sure they would.

BY MR. CHAPMAN:

Q. Okay.

A. They there were no requirements in the asbestos regulation for them to do that.

Q. So you're not sure if they though that or that they would have the responsibility?

A. Well they knew the asbestos the 72 reg came out Mr. Covil got the federal register that contained that standard. And there's nothing in there that requires a supplier intermediate supplier to pass along information.

Q. Okay I guess my question is sir, do you know if Covil did that analysis back in 72 when it came out?

A. I do not.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. As you are Covil today speaking to me as Covil?

A. Yes.

Q. How you know how does Covil know that it does not have that responsibility? What did it do to determine that?

MR. WALL: Object to the form of the question.

THE WITNESS: They didn't have the responsibility. They didn't know about. I mean there wasn't one. So how could they have known ait it.

BY MR. CHAPMAN:

Q. I guess that's kind of the gist of my question is how did they know that it didn't apply to them? What did they do to figure that out?

A. I guess well, they were remembers of trade associations. They talked to competitors and such. I guess if it was anythingment coming out of naggal insulation contractors association it would advise them that they how long be doing they may have considered it.

Q. Do you know if that happened?

A. No, I don't.

Q. Other than reading what Mr. Covil

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Palmer Covil said in his deposition, do you have anything else to tell me about what KOEFRM or or didn't do to try to figure out what duties they have in that area?

MR. WALL: Object to the form of the question.

THE WITNESS: Other than his deposition I do not.

BY MR. CHAPMAN:

Q. Okay and do you have any information to tell me what Mr. Calm Palmer Covil's basis was for saying that in his deposition?

A. I do not.

Q. And that's not something you've looked into?

A. I have not.

Q. Do you know if that's something that Covil has made any attempt to try to fine out?

MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: I do not know.

BY MR. CHAPMAN:

Q. Okay. I want to talk just because I had the break I had a minute to think I about it. I want to go back and talk about the document that

were URN bed up in the fire?

A. Okay.

Q. And I went back and I look at Palmer Covil's deposition, too. Just a couple follow ups about that. Now I understand there's some maybe continue districting testimony between the two I by want to focus on Palmer for a minute?

A. Okay.

Q. Mr. Palmer Covil mentioned that there were there was a vault?

A. Yeah.

Q. And within the vault were documents like accounts receivable accounts payable?

A. THOOETS right that's what it was, yeah. I said there was a journal that's exact lay what he said was in there.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you have any idea sir, if the accounts receivable and accounts payable had information relating to where they sold or purchased BAENS containing insulation?

A. I do not.

MR. WALL: Object to the form of the question outside the scope.

BY MR. CHAPMAN:

Q. Do you know where those document are?

A. I do not.

Q. Do you know if Covil still has them?

A. I do not know.

Q. Do you know if Covil has looked for them?

A. I do not know that.

Q. Do you know if they eve been destroyed?

A. I do not know that.

Q. Do you know if Covil has made any attempt to try to final or locate those documents?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

THE WITNESS: I do not know that.

BY MR. CHAPMAN:

Q. Do you have any idea if the documents even exist?

A. I do not.

Q. There were also aside from the accounts receivable and accounts payable Mr. Palmer Covil mentioned there was some other documents that were not destroyed by the fire. Do you have any idea where those documents are?

A. He did not elaborate on that. So I do not.

Q. Do you know if Covil has done anything to try to fine the?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Do you know if those documents exist?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I do not.
Q. Do you know what those documents would say?
MR. WALL: Object to the form of the question.
THE WITNESS: I'm sorry.
BY MR. CHAPMAN:
Q. Do you know what those documents would say?
A. No I do not.
MR. WALL: Object to the form of the question.
BY MR. CHAPMAN:
Q. Do you know what the topic of those documents would be?
A. No I do not.
Q. Does know what kind of documents they are?

A. No I do not sir,.
Q. Do you know if Covil has made any

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

attempt to try to answer any of those questions?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not know.

BY MR. CHAPMAN:

Q. All right and Mr. Palmer Covil also said that most of the documents were destroyed by the fire in the warehouse but not necessarily all of them do you recall that?

A. I did not recall that.

Q. Okay let me see if I can fine it real quick.

A. Okay.

Q.

Q. Okay so I am on page 4 of his deposition, sir,?

A. Which volume.

Q. Of volume one which also has a Bates label of Covil Palmer Covil excuse me Palmer Covil depo 10. And I'm just going to represent I'm going to read part RT 0 of it there's more to it. I don't want you to think I'm reading you the entirety of it okay?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Okay.

Q. His answer at the top of that page starting online 3 is well some of our personal files and employment records were destroyed. We have we just have a few of them. A BOOD many of the were deDROIed apply host all the invoices and things back to PREE 73 I guess and it goes on from there.

A. Read that again.

Q. Sure. Well, some of our personnel files and employment records were destroyed. We just have a few of them. A good many of them were destroyed and most all invoices and things back prior to 73 I guess. And then it goes on?

A. So he's saying the invoices were destroy.

Q. So from what I understand from that sir, is he said most of them were deSTOIed?

A. Yes most personnel records.

Q. Do you know where and most personnel records and most all in ROIS RNS okay?

Q. Do you the where the other ones are?

A. From no I do not.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you know what Covil has undo to try to look for those?

A. No I do not.
Q. Do you know if Covil has made any attempt to see if they still exist?
MR. WALL: Object to the form of the question.
THE WITNESS: No I do not.
BY MR. CHAPMAN:
Q. You looked for them?
A. No I have not.
Q. You been asked to investigate to that?
A. Have not.
MR. WALL: #0I6D.
BY MR. CHAPMAN:
Q. Has Covil made any attempt to try toe fine those records that they a have survived?
MR. WALL: Object to the form of the question.
THE WITNESS: No, I do not.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. Okay. If and I understand you don't have the deposition in p of you?

A. Right.

Q. If make end three carpenter in his deposition the gentleman that we spoke about earlier two said that there was a firewall in the

vault, if he made no mention or no distinction of the records being in the facility or the records were saved from the fire because of the firewall in the vault, other than Palmer paw's deposition do you have any reason to dispute that?

MR. WALL: Object to the form of the question outside scope.

THE WITNESS: Yeah I'm trying to think what Mr. Covil meant as a vault. And I don't know. But I doubt if they had a bank vault. I'm thinking he men they had a fireproof type safe of limited capacity but I do not know now. I was off thinking in my mind. So if you could rephrase that question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. Sure sure. So make three carpenter?

A. Yes.

Q. If he said that the documents didn't burn up in the fire, that they were saved by a firewall or vault or whatever it may be, outside of Palmer Covil's deposition here, do you have any reason to dispute that?

MR. WALL: Object to the form of the question.

THE WITNESS: Outside of his

deposition, no.

BY MR. CHAPMAN:

Q. Okay. Outside of his deposition have you done any sort of research that may answer that question one way or the other?

MR. WALL: Object to the form of the question.

THE WITNESS: No I have not.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. DWLOUZ know if anybody at Covil has UT side of yourself?

A. I do not. I do not.

Q. Okay all right. . Okay. Jumping around on you again?

A. Yeah.

Q. At when we resumed here we started talking about whether or not cove levels they had a legal duty to pass on those warnings?

A. Correct.

Q. And I think we've gone through that. Let me just ask you this, sir,. If Covil was the second largest insulation company in then area, and they had any of this knowledge do you believe that they had any sort of moral obligation to pass that information along to its customers?

MR. WALL: Object to the form of the question.

THE WITNESS: I don't know.

BY MR. CHAPMAN:

Q. Why not?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I'm I don't want to I just don't know what their thinking was on that matter but Covil -- yeah.

Q. I understand that the first time you heard the name Covil was two weeks ago sir,?

A. Right. Right.

Q. But you are Covil today?

A. Yes.

Q. You are who I have to talk to?

A. Yes.

Q. And as Covil, do you have any explanation for me as to why coal doesn't know if they had a moral obligation to pass along information like that?

MR. WALL: Object to the form of the question.

THE WITNESS: I was a business matter it it it it.

BY MR. CHAPMAN:

Q. Okay.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Mr. Covil did say that he never received any inquiries from the customers or jobs he was doing about the information related to health hazards.

Q. Okay. So because Covil didn't get any questions it didn't provide any answers?

MR. WALL: Object to the form of the question.

THE WITNESS: He did not, no. But implication would be that he would have provided if he had gotten an answer got a question and it might say that in the DEGS WLAKT affirmatively providing information to its customers.

THE WITNESS: It had no obligation and it was a business decision that Covil made.

BY MR. CHAPMAN:

Q. What kind of what DLO was mean by business decision?

A. They are not experts in that matter. They're experts in installing products and the insulation.

Q. Well they're the second largest in the whole southeast right?

A. Correct.

Q. Okay and so any information that they

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

would have had you don't believe they had a duty to mass that along?

A. No.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. All right. Any insulation that was shipped from Covil sir, did it I'm trying to think of the best way to praise this I'm sorry let me start that over?

A. All right.

Q. Any insulation that would have been ship FROMD comb to its customers did it go in E original manufacturers container or did it change container in any way?

MR. WALL: Object to the form of the question.

THE WITNESS: No it went in then original container.

BY MR. CHAPMAN:

Q. Okay how DLO you know that?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. That was paw Palmer's deposition.
Q. Okay is that true for every single piece of equipment that Covil shipped out?
MR. WALL: Object to the form of the

question.
THE WITNESS: According to his deposition it all went in the original containers.
BY MR. CHAPMAN:
Q. Did Covil sir, need recall asbestos for anything in its plan?
A. They did use recall asbestos.
Q. For what?
A. For some mixing of cement.
Q. Did it have anything to do with pipe insulation?
A. Yes.
Q. What is what did what is the relationship there?
A. They would put it around joints and fixtures where the insulation was, curves and

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

stuff

Q. Oh, okay. Did Covil ever ship out that cement that it mixed with recall asbestos?

A. Ship it out, I did not see that they did. I don't have the records that they sold recall cement recall asbestos to anyone.

Q. So what was the did they use it on site what was the purpose of it?

A. They would evidently been using it on

jobs.

Q. Was there anything else that Covil did that required recall asbestos?

A. That's the only thing I'm aware of.

Q. Would you be able to give the any ORT of quantity of how much recall asbestos we're talking about?

A. Not at this time, no.

Q. If in that same deposition Mr. MAKS MAKS testified that when he first started in I think it was 67 he said that there were approximately and estimated 1000 bags 100 pound

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

bags op recall asbestos coming in would you have any reason to dispute that?

MR. WALL: Object to the form of the question.

THE WITNESS: I don't know. I don't have the records from coal that would show what the KWANs are or for all asbestos they bought.

BY MR. CHAPMAN:

Q. So skitting here today you don't have any reason to dispute that?

A. No.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. At any point sir, did Covil put warnings on its asbestos-containing products?

A. No they never to my knowledge they never did or Covil never did.

Q. And I believe I asked you this earlier but I forgot and I apologize I don't I really try

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

not to double ask questions went was the last time that Covil sold asbestos-containing product?

A. I'm sorry.

Q. When was the last time that Covil sold or supplied an asbestos-containing product of any kind?

MR. WALL: Object to the form of the question.

THE WITNESS: 73/74 timeframe. They after the standard came out they had some material left and I think they did go ahead and sell that use that.

BY MR. CHAPMAN:

Q. All right and I'm not talking specifically about pipe insulation?

A. Yeah.

Q. But anything including gaskets even?

A. I have no knowledge if they sold

anything after they cleaned out their inventory.

Q. GAS GAS?

Q. So again sir, if Mr. MAKS MAKS says

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

that they stopped pipe insulation in that timeframe but continued with other asbestos-containing producting after that any reason to dispute that?

MR. WALL: Object to the form of the question.

THE WITNESS: That's his word against Mr. Overrule.

BY MR. CHAPMAN:

Q. You're talking about Mr. Palmer Covil?

A. Palmer Covil.

Q. He said there was nothing going out?

A. He said, yes.

Q. Was there any point in time sir, where Covil insulation placed a warning related to asbestos on any of its products?

A. No we've covered that. They did not.

Q. Was there any point in time sir, when Covil was on an job site and it was working with asbestos-containing products that it provided warning, warnings about its work to those and Covil?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

THE WITNESS: I have not seen any documentation of that.

BY MR. CHAPMAN:

Q. Has Covil made any attempt to try to figure that out?

MR. WALL: Object to the form of the question.

THE WITNESS: Not that I know of.

BY MR. CHAPMAN:

Q. Okay in rereading Palmer Covil's deposition on the break I saw that there also some of the records saved were workers' compensation documents and claims?

A. Yes.

Q. Does that ring a bell?

A. Yes it does.

Q. Do you know where those documents are?

A. I do not.

Q. Do you know if those documents have been given to us?

A. I do not for certain know. There were

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

two.

Q. Two of them?

A. (Witness Shakes in the Negative.)

Q. Do you know what years?

A. 1972 and 1975.

Q. Okay do I know if that's the end TIERTD of workers' compensation claims that Covil received?

A. I do not know.

Q. Do you know if Covil sir, has done any investigation to try to fine out if there were any prior to 1972?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not know that.

BY MR. CHAPMAN:

Q. And I'm talking specifically relating to asbestos related diseases?

A. I do not know.

Q. Sir, you heard of a man named Dwayne waters?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I have hear of that name. I don't know anything about him.
Q. How DLO you know that name?
A. I think it came up with talking with counsel.
Q. Do you know who he is?

A. No I do not.
Q. Okay I'll represent to you sir, that Mr. Waters is a person my firm represents in a different case?
A. Okay.
Q. Do you know what he says?
MR. WALL: Object to the form of the question outside scope.
THE WITNESS: I do not.
BY MR. CHAPMAN:
Q. Do you know what his testimony is relative to coal?
MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: I do not.
BY MR. CHAPMAN:
Q. Okay and I'll represent to you sir, and I'm paraphrasing this is's not an exact quote but he says that for a certain period of time Covil would sly asbestos-containing insulation inside asbestos free box are boxes marked asbestos free?
MR. WALL: Object to the form.
BY MR. CHAPMAN:
Q. Do you have any information about

that?
A. Object to the form of the question.
A. No I do not.
Q. You been asked to look into that claim at all?
A. I have not.
Q. Have you looked into that claim at all?
MR. WALL: Object to the form of the question outside the scope.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: No I have not.
BY MR. CHAPMAN:
Q. Do you know live anybody at Covil has done anything to try to figure out if that's true or not true?
MR. WALL: Object to the form of the question.
THE WITNESS: I do not know.
BY MR. CHAPMAN:
Q. Would you agree sir, that if that happened if KOEM supplied asbestos-containing insulation in boxes marked asbestos free that that would be a huge safety hazard?
MR. WALL: Object to the form of the question.

THE WITNESS: It would be a hazard not sure about huge.
BY MR. CHAPMAN:
Q. Why would it not be huge?
A. Because I don't know what the lib

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ration of the asbestos would be how much would become airborne.

Q. Would it be fair to say, sir, that if a end user was working with insulation that they thought was asbestos free but was actually asbestos-containing, they wouldn't know to take the proper precautions by working with that asbestos-containing material?

MR. WALL: Object to the form of the question.

THE WITNESS: No, they would not.

BY MR. CHAPMAN:

Q. They wouldn't know to use respirators or wet down mehtod or any of that?

MR. WALL: Object to the form of the question.

THE WITNESS: No, they would not. But you know many times when you don't know whether the product is or not you consider it to be asbestos-containing.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. What about when the box is labelled asbestos free?

MR. WALL: Object to the form of the question.

THE WITNESS: You would expect it's asbestos free SCOMBL sir, who does Covil belief is a reliable source of information about the hazards of asbestos.

THE WITNESS: They really don't have a lot of documentation about that. Mr. Covil attended a meeting where Dr. IR syring sill cough gave a presentation although he had to leave that meeting to go to a board meeting of the National Insulation Contractors Association. In looking over what I've seen this far Mr. Covil and Ann Ann Covil it seemed the only disease end point that they were really aware of was asbestosis. I don't see mesothelioma mentioned and I don't see lung KANS mentioned in their documents.

BY MR. CHAPMAN:

Q. So we'll go through it all. I guess my question is more limited to let me just re-ask it a different way because of that. Does Covil believe that Dr. Selikoff is a reliable source of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

information about asbestos HAZ?

A. I would think that Mr. Covil did because he seemed to take change and take more precaution after he heard Dr. Selikoff talk.

Q. And when did that talk occur?

A. That was in 66 I believe.

Q. And do you know what the topic of that talk was?

A. No I do not.

Q. Do you know if mesothelioma was discussed?

A. I do not.

Q. And as an industrial hygienist are you familiar with Dr. Selikoff's work?

A. Yes I am.

Q. Okay and do you know when Dr. Selikoff first started coming out with mesothelioma?

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Well, understanding of it?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Outside the scope.

THE WITNESS: Yes, the first mesotheliomas weren't described by Dr. Selikoff. They were described by Dr. Wagner in South Africa,

chrysolite mines. That was in 1960.

BY MR. CHAPMAN:

Q. I understand. I'm not asking about Wagner. But do you know when Dr. Selikoff started talking about it?

A. In 19 he held a meeting in 1964 and he had done this research on I'm PEEBing as an industrial hygienist now not Covil and he had done his work on slaters.

Q. Well so just to be clear sir, you are Covil but Covil has designated industrial hygienist so I'm talking to you as both right now?

MR. WALL: Object to the form of the question.

THE WITNESS: No they haven't de NATDed me as industrial ville.

BY MR. CHAPMAN:

Q. Let me be clear you are industrial ill?

A. Yes.

Q. They are also designated you?

MR. WALL: Objection XOUNL.

THE WITNESS: They designated me as the company fact witness.

BY MR. CHAPMAN:

Q. I understand. Okay. I'm not trying to argue with you.

A. Yeah.

Q. All right so in any event Dr. Selikoff's work or understanding or description of asbestos or excuse me of mesothelioma was two years before Mr. Covil went to see him speak?

MR. WALL: Object to the form of the question.

THE WITNESS: I would have to go back and read Dr. Selikoff's paper because a 64 paper I don't think he said anything about MOOEDZ. He was

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

looking at increase of lung KANS and specially what he thought, what he thought was a drastic sinner JIS tick effect between cigarette SMOEG and lung KANS which layer was disproved.

BY MR. CHAPMAN:

Q. So again I mean it's an easy question to answer we can go look at his work but the point I'm trying to make here?

A. Well you have to look at the toe TALT of work not just his. You have to research has to be consistent cross study study study I'm getting too far in then winds with industrial hygienist.

Q. I think we're talking at cross points

here?

A. Yes.

Q. All I'm trying to say sir, is when Mr. Covil went to go see Dr. Selikoff speak that was two year after his presentation in 64?

A. After his paper published in 64 as I recall, yeah or his meeting in 6 #12K3W4R right. Right does Covil leave that OSHA is a reliable

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

source of asbestos XHE.

A. Yes.

Q. What about the mine mine?

A. I don't think they have any contact with mine mine.

Q. Does Covil have any knowledge of mine mine?

A. I would -- I would doubt it. I haven't seen any record of it. I have seen OSHA mentioned but not many SHA.

Q. How do you know that they don't have any?

A. Haven't seen any report of it yet and most industrial hygienist don't know that many SHA exists.

Q. Okay sitting here today you can't tell me one way or the other?

A. That they knew about M SHA.

MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. Yes, sir?

A. No, I cannot.

Q. Okay. All right let me just ask you more broadly, sir. When was the first time that Covil knew that asbestos could be hazardous?

A. It appears 1966. Mr. Covil said he started hearing some talk before that and he said he was aware of some articles that had been published in the asbestos slaters journal or not it's not a journal actually. It's a publication.

Q. Does Covil sir, have an understanding exposure to asbestos can cause asbestosis?

A. They do.

Q. When did they learn that?

A. It would have been in then 65646566 periods.

Q. Does coal sir, have an understanding exposure to asbestos can cause lung KAVRNS?

A. I have not seen that from the documents I've seen.

Q. So sitting here today in 2018?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Yes.

Q. You telling me Covil you can't tell me if Covil understand LG that exposure to asbestos can cause lung KANS?

A. Covil understands it now yes.

Q. How do you know that?

A. Through litigation.

Q. When did they first learn that?

A. I don't know when the first case was.

Q. So outside of litigation Covil has no understanding of that?

A. I think that's where they first became aware of it.

Q. Does Covil have an understanding exposure to asbestos can cause mesothelioma?

A. I think they do as well, yes.

Q. Went did they first learn that?

A. Same period through litigation.

Q. Do you know what decade we're talking about?

A. I would probably say in the late 70s.

Q. And what litigation are you talking about specifically?

A. The COMBUGS engineering case, COMBUGS

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

25 engineering yeah.

Q. Does Covil does Covil have any opinions one way or the other that exposure to asbestos actually causes mesothelioma?

A. Covil would think that based on the science that there is a relationship between asbestos exposure and mesothelioma.

Q. Okay and why is that?

A. Just by their NOOJ that they gained over time and also their litigation.

Q. Okay do us know sir, the first time that Covil heard the term T L V?

A. Yeah I don't know about T T but they knew of the PE L from fell 72 standard. Of course in the end preamble it discussed T T too but the regulation part would have only discussed permissible exposure limits. At that time five fibers per CC later reduces to two.

Q. So do you know sir, that Covil had actual knowledge of OSHA in 72?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. In 72, yes.
Q. How do you know that?
A. They had heard 0 about it from their other customers -- competitors and from the associations they were members of.
Q. Do you know sir, if any point when

OSHA came out in 72 if Covil sat down and read the regulations?
A. They certainly went out and got the June 7, 1972 regulation and I would think they would have read the regulation, yes.
Q. How DLO you know they went out and BOT it?
A. Mr. Covil said he did and he evidently got some com up federal registers too TWHI continue in aed stairs related to asbestos.
Q. Okay and do you know if at that point they understood the term threshold limit value?
A. I don't know how deep their understanding would have been. I think they would have known as much as they talk about quote a safe

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

unKWAF level.

Q. Do you know sir, the first time that Covil had a true understanding of threshold limit values?

A. I'm not sure that they dot that far ever got that far really. I don't know.

Q. What about PEL?

A. They would have had maybe a better understanding of PEL.

Q. Why?

A. Since it was a federal requirement.

Q. What about maximum allowable concentrations?

A. Those are those are used in then 1940s just as I got into the field.

Q. Do you know if Covil had an understanding of that?

A. No.

Q. Sir, do you know if any point in time Covil asked a doctor about the hazards of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

asbestos?

A. They had doctors looking over their people, mostly it was treating them for accidental injuries. They were because of their North Carolina operation familiar with the North Carolina dusty trades program. At the time -- I don't if they developed it. It wasn't a complete understanding, but they knew that you had to have a work permit essentially in North Carolina to work with asbestos. They felt that that had been in place about four years when they started getting their North Carolina workers into that.

Q. Okay. And my question was a little bit different than that. Outside of doctors on staff to treat workplace injuries, which, you

know, the way I understand your testimony is someone tripping or getting hit, normal injuries, do you know if Covil ever went to a doctor and asked that doctor about the hazards of asbestos?

MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: After the OSHA standard in 72 they started getting their other workers into medical surveillance or x-ray program as well.

BY MR. CHAPMAN:

Q. And what was the purpose of that?

A. To screen for subtle changes of asbestosis in the lung.

Q. Was that for worker safety or for neuroUR litigation purpose?

A. OIFRTD.

A. They did it because it was a safety RIERTD it was a federal RIERT of regulation and had force of WLAU.

Q. And do you know if Covil held on to those records?

A. I do not.

Q. Do you know if Covil has looked for those records?

MR. WALL: Object to the form of the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Do you know if those would be the records that would have survived or not sure VOIFRed the fire?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Do you know if Covil continued that kind of screening post the fire in 1973?

A. It started yeah they would have continued as long as they used asbestos.

Q. And do you know if any of the post 73 SKRAENing docks exist?

A. I do not.

Q. Do you know if Covil has done anything to try to fine those?

A. I do not. When- the pre73 docks were part of North Carolina department of labor in the health department. The x-rays on North Carolina workers.

Q. Are you saying Covil wouldn't have

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

those?

A. From my experience, not as a Covil employee they would not because that was done by a government agency and they would have probably reported to the worker THAERSZ fine, not to Covil.

Q. Do you know if Covil has reached out to North Carolina to see if they have those records?

A. I do not.

Q. Do you know if Covil has done so much as make a FOIA request to try to find those records?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Does are know if they've done anything to try to get those records from North Carolina?

MR. WALL: Object to the form of the question.

THE WITNESS: I do notment and North Carolina might not be able to turn the motor in

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

any event.
BY MR. CHAPMAN:
Q. Has Covil tried?

MR. WALL: Object to the form of the question.
THE WITNESS: Not that I know of.
BY MR. CHAPMAN:
Q. At any point sir, did Covil ask its suppliers such as corn corn about the hazards of asbestos?
A. I do not know if they did.
Q. Do I know if coal has done anything to try to figure that out?
MR. WALL: Object to the form of the question.
THE WITNESS: No I do not.
BY MR. CHAPMAN:
Q. Were Covil's employees you thosed?
A. They are earlier on in then 50s they were a union shop. And in 1962 they did not

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

negotiate a contract after that. Now the operations in Birmingham and Jacksonville remained a union shop.

Q. Okay so 52 to the mid 60s Greenville was a union shop is that what you said?

A. That's what I understand yes.

Q. Okay which local?

A. I do not know.

Q. Which national?

A. I do not know.

Q. Okay?

A. I p haven't seen those records yet.

Q. Okay so you know they were you thosed but you can't tell me which union?

A. I cannot. I know Mr. Covil himself was a union, a union member when he first started in 1946, 1948 and he was a member of the association of slaters in heat and frost insulation whatever it's called.

Q. Okay?

A. SAL man DERs.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you know if that's what?
A. I do T know no if that's what Covil.
Q. The Greenville?
A. The union representatived to them. I would think it would.
Q. Do you know sir, if Covil ever went to the union and asked for information about THU hazards of asbestos?
A. I do not.
Q. The other shops that were you thosed I think you said Birmingham and which other?
A. Jacksonville FLA that.

Q. Do us know what unions they were?
A. No I do not.
Q. National or local?
A. I don't.
Q. What years were they you YAUN?
A. Hazards of asbestos.
A. The operations in Birmingham and Jacksonville were kept union until they closed 55

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

yeah.

Q. Do you know sir, if Covil REECHLed out to those unions assuming they were different from the Greenville shop to ask about the hazards of asbestos?

MR. WALL: Objection.

THE WITNESS: I do not.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Do you know if Covil has done anything to try to answer those questions in this case?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Outside of the workers' compensation

claims from 72 and 77 do you know sir, if Covil ever received complaints from employees about asbestos?

A. I do not.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you know what if anything Covil has done to try to fine out information that would aWLOU you to answer that question?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not.

BY MR. CHAPMAN:

Q. Okay sir, what trade okays was Covil a member of?

A. They were a member of the southeast insulators association contractors association and the national insulator contractor associations. I called them my an and psych a.

Q. There was also some organizations where individual members or individual people could be a member and not necessarily the corporation?

A. Correct.

Q. Do you know if any of the Covil employees were a member of any trade orbs?

A. I do not know that.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you know if Covil has done anything to try to figure that out?

MR. WALL: Object to the form of the question.

THE WITNESS: As an individual I don't I don't know if trade organizations were individuals or members but they may have been. But so I don't think they would have been eligible for membership any way. Trade organizations represent company in the industry.

BY MR. CHAPMAN:

Q. So I'll represent to you sir, that some trade okays have?

A. Okay.

Q. Individuals and companies?

A. Okay.

Q. Do you know if Covil has WLOOKed to see if any of its employees were ever individual members of any trade okays?

A. I do not.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Do you know why not?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

THE WITNESS: No I do not.

BY MR. CHAPMAN:

Q. Is anything you have seen in your review of documents, I have not?

Q. Do you know if the documents even though that information?

A. I do not.

Q. Do you know if those were the kind of documents that may have been destroyed by this fire in 73?

A. I do not know that.

Q. Sir, do you know if Covil or any of its members or any of is employees excuse me were member of the national safety counsel?

A. I do not know.

Q. What about the I H F INTRIL hygiene found FAGS?

A. I do not know that.

Q. All right, sir I want to switch gears

and talk about Covil's relationship with Daniel whip was the first time sir, that KOEFR ever worked with dance construction?

A. I'm not sure I concentrated MOEGSly on the Spartanburg Celeanese MRANL. I know dance was

in there on that one but dance was they did do a lot of work with Daniel and supply Daniel.

Q. Do you know if Covil had any contracts with Daniel?

A. I would imagine they had subcontract as a subcontractor would have had accounts with Daniel.

MR. WALL: Object to the form of the question outsided the scope.

BY MR. CHAPMAN:

Q. Do I know if Covil has any of those RT contracts?

A. I do not know.

MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. Do you know how often sir, Covil worked with Daniel?

MR. WALL: Object to the form of the question.

THE WITNESS: They were one of their bigger customers.

BY MR. CHAPMAN:

Q. I'll represent to you sir, that again MAKS MAKS said in his deposition may not be

verbatim but close to the something to the effect of if Daniel did the job then Covil slated it?

MR. WALL: Object to the form.

BY MR. CHAPMAN:

Q. Do you have any reason to dispute that?

MR. WALL: Object to the form of the question.

THE WITNESS: Yes I do.

BY MR. CHAPMAN:

Q. Why?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. They didn't insulate the job at Spartanburg Celeanese.
Q. How do you know that?
A. Because Daniel did it.
Q. And I guess what I mean not necessarily physically did the work but supplied the insulation?
A. I would doubt that.
Q. So let me back up and make sure we're on the same page?
A. Okay.
Q. If MAKS MAKS said something to the effect of if Daniel did the job Covil would have supplied the insulation do you have SXHI reason to

dispute that?
MR. WALL: Object to the form of the question.
THE WITNESS: I don't -- I think I'll fine some because I can't believe that a company as large as Daniel could get all the material they

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

needed if if Covil was out I'm sure they'd go somewhere else.

BY MR. CHAPMAN:

Q. Sitting here today can you do you somewhere anything to tell me that's wrong?

MR. WALL: Object to the form of the question.

THE WITNESS: That's wrong? It's just his saying that was the way it was. I mean, I can't accept that.

BY MR. CHAPMAN:

Q. Why not?

A. Because he's evidently a worker. He's not a businessperson with the company with Covil.

Q. I'll represent to you sir, at one point in his career he was I think a vice president of Covil?

A. He was?

Q. Yeah so with that in mine do you have

any reason to dispute that?

MR. WALL: Object to the form of the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

question.

THE WITNESS: I still any it's just a saying just thrown out you know. I don't think he could -- I don't think that's the case if we look deep into it.

BY MR. CHAPMAN:

Q. And how would we do it?

A. We'd have to have some records.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. And do we have records?

A. Daniel might have the records.

Q. You asked Daniel for know records?

A. I have not.

Q. Has KOEFRM?

MR. WALL: Object to the form of the question.

THE WITNESS: I don't know.

BY MR. CHAPMAN:

Q. Why not?

MR. WALL: Object to the form of the question.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: I don't know.
BY MR. CHAPMAN:
Q. So again, you're Covil this is my file to TRAUK to you?
A. Right.
Q. Sitting here today 0 do you have anything to tell me that you know continue districts that?
MR. WALL: Object to the form of the question.
THE WITNESS: Not today.
MR. WALL: Out of scope.
BY MR. CHAPMAN:
Q. Okay I think we established earlier Covil supplied insulation to the Spartanburg plant?
MR. RAINSFORD: Objection did not.
THE WITNESS: They were listed as a vendor, yes.
BY MR. CHAPMAN:
Q. Okay just because I got an objection let me just ask you sir, did Covil supply

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

insulation to the Spartanburg plan?

MR. WALL: Object to the form of the question.

THE WITNESS: I don't think I've seen a document that actually said they sold anything or delivered anything there but I could be wrong.

BY MR. CHAPMAN:

Q. They were listed as a vendor?

A. Yes.

Q. Okay. Do you have any other information sir, about what Covil did or supplied to the part plant?

A.

MR. WALL: Object to the form of the question.

THE WITNESS: Not at this time, no.

BY MR. CHAPMAN:

Q. What have you done sir, to try to answer that question in this case?

A. I have not at this time.

MR. WALL: Object to the form of the

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

question.
BY MR. CHAPMAN:
Q. Sir, when Covil was working on site at any particular job who would SPIEDZ its workers?
A. The superintendent for the job.
Q. Is that someone from Covil orb somewhere else?

A. Nor the Covil work, yes.
Q. Okay?
A. He could be in and out.
Q. Covil would sent its own supervisor?
A. Yes for his yes for their workers.
Q. When Covil was on site do you know if there were safety meetings for Covil employees?
A. I do not know.
Q. Do you know if Covil did anything to try to figure that out?
MR. WALL: Object to the form of the question.
THE WITNESS: I do not know.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

BY MR. CHAPMAN:

Q. Do you know sir, if when Covil was on site it warned other contractors around it about its work?

A. I do not know that.

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Do us you know if Covil did anything to try to figure that out?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not know. When you say that you need to be you know we need to be talking butte the framework of years as well because there's a time when Covil didn't know.

BY MR. CHAPMAN:

Q. For any period of time, sir,?

A. For any period, yes.

Q. Okay. When coal was on site doing work, sir, who would inspect their work?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

THE WITNESS: Superintendent would be responsible for clearing the work.

BY MR. CHAPMAN:

Q. And any work done post OSHA would there have been any sort of safety checks about after the work was done or making sure the easy work was done safely?

A. They would make sure that debris was cleaned up and anything related to the work was taken out and handle properly.

Q. What about preOSHA?

A. I don't know what they were I would think they would be pretty much the same but I they would probably take a few more precaution

after OSHA.

Q. And what's your basis for knowledge on that?

A. Just knowing they were aware of the

regulation that required that.

Q. Sure and I guess what I'm asking is how do you know preOSHA that it would have been pretty much the same?

A. Well, the contractor is going to expect his SUBSs to clean the place and get it back in the order it somehow be before they let them off the job.

Q. And outside of your general knowledge sir, that that may have happened DLO you know if that happen at Covil? Have you seen any document or talked to any person or read any deposition?

MR. WALL: Object to the form of the question outside the scope.

THE WITNESS: I would have to go back and look at one of the safety documents there was a checklist that they would into over and I don't and it may have had some of that related to the cleaning the site, proper disposal of materials but I'd have to look.

BY MR. CHAPMAN:

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Do you know HIF that happened pre72?
A. I don't.
Q. At any point, sir, before we do that I want to get these documents we have premarked exhibits 10, 11 and 12 we you guys have already taken a break and discussed. I want to hands you sir, what's been marked as Exhibit 10 have you EEN that BVR?
A. I saw it earlier this morning.
Q. Other than this morning have you seen it?
A. Let me see. I may have seen this yes, sir.
Q. Okay and make sure I'm?
A. I belief I did see this because we searched I searched for coal in Spartanburg and this could have possibly come up there.
Q. Okay make sure we're looking at the same document the one I have is Bates COV 017662?
A. Correct.
Q. Through 17667 no I'm sorry yes that's right?
A. Yes that's right.
Q. Okay. And it's dated March 13, '89?
A. Yes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Has the Covil LOEG up top?

A. Right.

Q.

MR. CHAPMAN: Mark MIG with a Covil Bates label is an authentic business record.

MR. WALL: If we produced them to you and it's the Covil Bates number on it, yes.

MR. CHAPMAN: All right.

BY MR. CHAPMAN:

Q. Sir, can you read that highlighted passage please on the first page?

A. Covil corporation is a Greenville South Carolina based insulation contractor and distributor SPERL LIEZing in industrial and commercial insulation.

Q. And it goes in 0 to say sir, in the second paragraph there that Covil has the facilities capabilities and expertise to satisfy the RIESHGs for any size job?

A. It does.

Q. That's right. All right. And if you turn sir, to Bates 17665.

A. Okay.

Q. And this says material references up top?

A. Yes.

Q. What are we talking about on this page do you know?

A. I'm not quite certain.

Q. Are these references that Covil is giving to other people where they've done jobs in then past?

A. Or is it references or their materials? I don't know but it seems like they've got contact numbers and also it appears that they are possibly representing these as references of their work.

Q. And the second list on there is HURS fibers in Spartanburg, South Carolina?

A. Correct.

Q. You can put that aside thank you sir,?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. CONNER: What's WHAES highway the date on that.

MR. CHAPMAN: March 13, 1989.

BY MR. CHAPMAN:

Q. Okay I'm going to hand you sir, what's been premarked as Exhibit 1?

A. All right.

Q. Have you seen this before, sir,?

A. I have.

Q. When was the first time you saw it?

A. I saw this in the documents I'm pretty sure that we pulled based upon having Celeanese as a search word.

Q. Okay and do you know how long you looked at this document?

A. I didn't spent too much time looking at it.

Q. All right and for the record it appears this is Bates Covil or COV 010069 through 10080. ; is that correct?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Yes.
Q. And again it's got the Covil logo at the top?
A. Yes.
Q. And it's from March 8, 1991 correct?
Q. What is this document what is Covil saying here?
A. Oh they're requesting a loan from the bank and they were looking to have it so that their that the vendor would get paid once before the work was done.
Q. And on the second page, sir, bullet point number 5 there?
A. Yes.

Q. It says big industrial clients would be joint pay to Covil Corporation in the first savings it lists examples in those examples are both HURS Celeanese and Daniel construction company?
A. Uh-huh.
MR. WALL: What's the date.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

THE WITNESS: March 8, 1991.

BY MR. CHAPMAN:

Q. And then sir, Bates 179 towards the back?

A. Okay.

Q. It says credit information?

A. Yeah.

Q. Do you know what this list continues on to the next page, what this is?

A. Evidently they have credit with these companies.

Q. And on the second paint entry number 12 is HURS fibers Spartanburg South Carolina?

A. Correct.

Q. Put that aside. Thank you. Okay. And lastly sir, I'm going to hand you what's been premarked Exhibit Number 12. Have you soon this before?

A. I believe I have.

Q. You saw it this morning with your

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

counsel?

A. Yes, I did that. I was trying to think whether I saw it earlier but I did see it this morning.

Q. Okay how much time did you spent with this?

A. Just glanced through it just to get an idea of what it was what it contained.

Q. What is this document?

A. This is a docket of projects that Covil came from Covil's files evidently of where they worked, different jobs.

Q. And for the report this has Bates COV008819?

A. Correct.

Q. Through 8824?

A. Correct.

Q. And sir, on 8823 towards the back take major time?

A. Okay got it now.

Q. Second from the bottom it says HURS fibers Spartanburg South Carolina?

A. Correct.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. All right put that aside. Thank you sir,.

MR. RAINSFORD: Is there a date on that document.

MR. CHAPMAN: There is not you can take a look.

MR. RAINSFORD: Appreciate it.

MR. CHAPMAN: We've been doing #230R about an hour why don't we take a short break and come back.

VIDEOGRAPHER: We'll now go off the record time on then monitor is approximately 134 p.m. break.

(A recess was taken.)

VIDEOGRAPHER: We'll now go back on the report. E time on the monitor is 144 p.m.

BY MR. CHAPMAN:

Q. Okay. Let me just kind of ask you generally, sir, the if you can answer this question, how many documents do you have from Covil that you have not reviewed?

A. A lot, tremendous amount.

Q. Tens of thousands?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Yeah yeah probably about yeah probably.

Q. And that's just because of the timing here the two week?

A. Yeah yeah.

Q. If you had nor time to resaw those documents would you be in a better position to talk to me?

MR. WALL: Object to the form of the question.

THE WITNESS: I would certainly be more knowledgeable I about what went on with Covil.

BY MR. CHAPMAN:

Q. Sitting here toad do you think that you haven't had enough time to get to know the documents and be knowledgeable to talk to me about some the questions you're asking me?

A. I think some of the question -- some of the answers would be the same but certainly could be some that I could elaborate on I think.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. WALL: Object to the form of the question.

BY MR. CHAPMAN:

Q. Okay. All. Right so let me ask you sir, about insurance Covil may have had. Does Covil have think insurance that would cover asbestos LAKTs from 1970 to 1974?

A. They do.

Q. Okay and which companies are those with?

A. They have three right now sentry Zurich and travellers U.S. F and G.

Q. And do you know what the POLTS limits are or anything like that?

A. I do.

Q. What are they?

A. Sentry is 750,000. Seweric is 1 million $450,000 and travellers is 600000.

Q. All right look like you're reading off of something?

A. Yeah.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. What is that?

A. It's my I went through this morning and looked at the other insurance material and looked up the policies sub tracked what they've already spent.

Q. If I ask for a copy of that are you going to October?

MR. WALL: We offered to give you all of that a couple of years ago I mean a couple of weeks ago and you sort of reJEKed it.

MR. CONNER:

MR. CHAPMAN: I'm not sure what you're talking about but.

MR. WALL: I offered to give JES an a complete we've already given awe a COMBLEET updated list of the policy LS that we know about. I offered to give her the run rate if you will on all the policies of the participating carriers. Those participating carriers are those who are still providing insurance defense to Covil.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

MR. CHAPMAN: I'm talking about his notes here today.

MR. WALL: Yeah I don't mine.

MR. CHAPMAN: Okay then if NEJS break when we wrap up if we can just get a copy of those notes.

THE WITNESS: Yeah.

BY MR. CHAPMAN:

Q. When did you make those?

A. This morning.

Q. Okay.

A. I anticipated your question.

Q. In preparation for this deposition sir, did you take any other notes?

A. No.

Q. Let's just take a 30 second break and

get a copy 0 that if we could real quick so I can ask INTEL general questions?

VIDEOGRAPHER: We'll now off go off the record them time is 147 p.m.

(A recess was taken.)

VIDEOGRAPHER: We'll now go back NB report time in monitor is 150 p.m.

BY MR. CHAPMAN:

Q. Okay thanks mark for making me a copy of?

MR. CHAPMAN: Sir, I have a copy of your notes now.

THE WITNESS: That's fine thank you.

BY MR. CHAPMAN:

Q. It says on here Sentry Zurich and traveller?

A. Correct.

Q. And the 750000 that's the insurance that they had?

A. Uh-huh.

Q. Is that just total per occurrence or what?

A. That's total that's aggregate.

Q. How do you know?

A. That's where I took it from.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. I'm sorry?
A. I took the currents and added up over THERZ years that's how I did it.
Q. And do you though if Covil had any insurance per occurrence?
A. I don't -- yeah they had per occurrence I just I was thinking umbrella but yes.
Q. And are the per occurrence insurance coverages covered in here in your notes RN that's the totes, yeah for the years?
Q. Okay?
A. Policy were in effect.
Q. Are these the only three insurance companies that Covil would have coverage with nor the years?
A. Only ones that I know of, yes.
Q. And what has Covil done to try to figure this out?
MR. WALL: Objection we you know we sent subpoenas with you to all the carriers.
MR. CHAPMAN: Okay I'm just asking the witness what he knows.
THE WITNESS: Ever.
THE WITNESS: I wasn'tful so in that but I was told that they sent that someone either

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

your firm or the Covil firm sent subpoenas out to the insurances insurers that had policies ever unrecords.

BY MR. CHAPMAN:

Q. So I'll represent to you sir, that my firm has sent out subpoenas RN they did?

Q. They did what I'm asking is what Covil has done?

A. They turned over information to you.

Q. What information?

A. Information on those policies as far as who the insurers were.

Q. Sure and I guess how DLO you know that these are all of the insurers?

A. Those are the ones at the TANL now.

Q. Those are what?

A. Those are the ones that we have at the table now.

Q. Okay I understand that?

A. Yeah.

Q. But how do you hoe there's not someone

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

else out there?

A. I don't.

Q. And that's what I'm trying to figure out what has Covil done to try to figure that out?

A. I'm not sure.

Q. Would some of those records have been destroyed in the fire of 73?

A. In his deposition he Mr. Covil Palmer Covil I think said that he had been able to put together information on all of the insurers. I think that was in his deposition.

Q. Okay and do you know what he what does he mean by that?

A. I guess he that he had I don't know whether he had policy numbers but I think he had had possibly the insurer and the policy numbers.

Q. So and I guess what I'm trying to ask you sir, is do you know for certain that these three entities are the only insurance agents or SHURNGS corporations that have you have insurance

with for the timeframe, October to object to the form of the question?

A. I.

MR. WALL: Object to the form of the question.

THE WITNESS: I don't know.

BY MR. CHAPMAN:

Q. I've heard of some companies sir, having over arching insurance like the one we're

talking about now but they also have project specific insurance do I are know if Covil had any project specific insurance?

A. I do not know.

Q. Do you know if they had any at HURS Celeanese Spartanburg?

A. I do not know.

Q. Do you know if they had any that Daniel required them to have?

A. I'm not sure.

Q. Do you know if Covil has done anything to answer those questions?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I don't at this time.

Q.

MR. WALL: Object to the form of the question provided subpoenas.

BY MR. CHAPMAN:

Q. So speaking of those subpoenas sir, do you know if Covil has the information from those subpoenas RN I do not know?

Q. Have you been shown that information?

A. No.

Q. Have you did you flow that it even existed before today?

A. I did I learned about it this today.

Q. Do you have any idea what information those subpoenas have given us?

A. No.

Q. Do you know if Covil has made any effort to follow up on those subpoenas?

A. No.

Q. Do you know if Covil has made any

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

effort to confirm the information within the subpoenas, I guess the information received from subpoena?

A. I don't know of any that they have received.

Q. Do you know sir, if Covil has made any EFRTSDZ to follow up in its own records about insurance policies?

MR. WALL: Object to the form of the question.

THE WITNESS: I do not know.

BY MR. CHAPMAN:

Q.

MR. CHAPMAN: I'm going to go ahead and mark this as Exhibit 13 just so we have it because I will lose it.

(Plaintiff EXH. #, Handwritten Notes, marked for identification.)

BY MR. CHAPMAN:

Q. Sir, at any point did Covil have a safety director or a person in charge of safety?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. Not a safety director or person in charge that fell to Mr. Johnson.

Q. And how long did he have that position?

A. I'm not sure the exact years but from what I recall he had it from early on up until probably in the late 70s or 080s I just don't know when he terminated that responsibility terminated with him.

Q. All right and when you say early on what do you meanbly that?

A. I would say in the 50 are early 50s.

Q. And he held that position until, you said what the mid 70s?

A. I don't know the exact date.

Q. Okay do you those if there was anybody who took up that role after him?

A. I do not know that.

Q. When Mr. Johnson had that role what were his duties?

A. He had the he was responsible for the aREN TIS program and the safety was taught in

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

that. He also had those manuals that we've discussed. He used the document from the national insulators contractors association to train on asbestos specific uses in the work site and he would go around as well as the other superintendents and such and observe safety practices on the job.

Q. Was it part of his responsibility to make sure that Covil had a safe plant that its plans itself were safe?

A. That fell to him.

Q. Did you have anybody to make sure that the products you were supplying were safe?

MR. WALL: Object to the form of the question.

THE WITNESS: No Covil did not test any of the products or feel that that was their obligation to test any products.

BY MR. CHAPMAN:

Q. Did Covil have safety personnel in all of its facilities or just Mr. Johnson?

A. That fell down from Mr. Johnson to superintendents and foremen to make sure safety

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

rules were being oh bayed.

Q. Okay what was Mr. Johnson's title do

you know?

A. He was I can't recall just up right now. He was not a contractor -- he was he was responsible for the job sites essentially, what went on on the job sites.

Q. And outside of him?

A. He had been like operations I would say you know in the days parlance.

Q. Outside of him if I'm understanding you, the only VISD that were responsible for safety were superintendents and foremens?

A. There were two others that were mentioned somewhere that had some responsibility. I think one was KAS NER and I don't recall the name of the other.

Q. There wasn't a safety specific person for each plant anything like that?

A. Not a full time it was as collateral job for Mr. Johnson.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. How did that how did that position come about?
A. I'm not sure. That was in the early 50s.
Q. Do you know sir, I know we talk about kind of safety meetings when your were on site.

Did Covil have safety meetings for its employees at the plant?
A. I didn't I have not seen any records of that.
Q. So sitting here today can you tell me that one way or the other?
A. I cannot.
Q. Did Covil educate ITSD employees?
MR. WALL: Object to the form of the question.
THE WITNESS: They well yes.
BY MR. CHAPMAN:
Q. How so?
A. With an apprentice program with

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

directions about safety subpoena certain I with the asbestos specific guidelines.

Q. What kind of stuff well made up the apprentice program?

A. I'm not sure. That was more of a work practice of insulating but they there was a safety component in that accordingly.

Q. Do you know what that safety don't cyst consisted of?

A. I have not seen any document of the apprentice program.

Q. Other than the NOOIK brochure that we talked about earlier any asbestos training for Covil employees?

A. Not that I'm aware of.

Q. Did does Covil or did Covil I should say, maintain any sort of library for period KLS or documents it may have received from trade okays and things like that?

A. They received trade publications. I don't know if they retained them or not.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Would you be able to tell me anything about that if I asked you further about that?

A. I don't think so. I imagine if they had any pre73 in the fire they were probably LOSZ in the fire. I don't know if they retained the others. And most industries I think they're just circulated read and trashed.

Q. Okay so the documents Covil has today does it have all of the documents post 1973 post the fire?

A. I would expect they do.

Q. And?

A. Any that yeah any that sure VOIFRed the fire, yes.

Q. So let's just talk about post fire for

a second?

A. Okay.

Q. 1973 post fire until they closed down in Saint 991?

A. Okay.

Q. Does Covil have 100 percent of those documents?

A. I do not know SGLOS how many documents total does Covil have.

A. I'm not sure of the exact number. There were 24,000 pages but and there may be some others in boxes.

Q. Okay. However many document that is there's 24,000 pages?

A. In that next point rods with r records we have, yes.

Q. Do you know if there east anything else besides those next point records?

A. I do not. As far as when the records effect there the Covil offices they were retained by counsel.

Q. Okay do you know if your counsel has the?

A. I assume he does.

Q. Is Covil and I'm just trying to

understand I'm not trying to argue with you is

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Covil saying 24,000 records is the entire entirety of the documents it has from 73 to 91? That's the end TIERTD of the document that would have been generated in that timeframe?

A. I don't believe that's the case but.

Q. Okay where are the 0 other documents?

A. In the possession of legal counsel for Covil.

Q. Do you know how many that consists of?

A. I do not.

Q. Do you know ballpark?

A. I don't.

Q. Are we talking 100 documents or 100,000 document, I'm sure it's not 100000 and I would suspect it's over 100 but end don't know the exact number of course?

Q. Are these records that you have access to?

A. I haven't looked at them yet.

Q. Is it something that Covil has asked you to do as THAER corporate representative?

A. They have not.

Q. So just to make sure I'm not going down a ROBLT hole here I want to make sure I

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

understand?

A. Yes.

Q. There are what you're telling me is there are two set of documents there is a set in next point that consist of about 24,000 page?

A. Yes.

Q. And there's set in Covil else ounce's office that are different?

A. They may be one they may be over lapped. I don't know.

Q. Are there some documents though that are different than the ones that are in next point?

A. I do E know that for sure.

Q. Do us are know if the ones in counsel's office are the same 24,000 or different?

A. I don't know that.

Q. Sir, what has Covil done to try to understand what records it has?

A. I'm just getting started. So I'm at the early stage of I'm sure I'll fine out more

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

about what I'm to do regarding those documents and such.

Q. EL with I understand that, sir, but you're here today?

A. Yes.

Q. And I'm talking to you today?

A. Right.

Q. So sitting here what can you tell me as the corporate representative?

A. About those objections?

Q. Yes, sir.

A. There are some other documents I don't know how many. Whether they're the same as the 24,000, whether they scanned the entire file I do not know but there are 24,000 pages and then there are some other documents I'm aware of.

Q. What other documents?

A. I don't know. I say I don't know what they are.

Q. All right you don't know what they consist of?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. No I haven't seen a listing or anything.
Q. All right do you know if the documents that Covil has are indexed in any way?
A. I do not know that.
Q. Do you know how they're organized?
A. No.
Q. Do you know if they're chronological

or anything like that?
A. I don't know that.
Q. Do you know if Covil has sales records post 1973?
A. I do not know that.
Q. Have you seen any?
A. I can't say that I have. As I say I've looked at a few of these 24, thousands but not as great number.
Q. You look?
A. I don't remember the sales number but it BHA be.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. You looked FORZ sales records post 1973?

A. No not specifically sales records.

Q. And I'm not talking just in the Crawford case but at all?

MR. WALL: Object to the form of the question.

THE WITNESS: No.

BY MR. CHAPMAN:

Q. Sir, any journals or period KLS that KOEFR received from trade okays or unions do you know itch they were made available to Covil's employees?

A. I do not know.

Q. Are you familiar with the publication industrial dust?

A. Drinker and hatch.

Q. DRIN DRIN?

A. Covil is not.

A. Yes.

Q. Okay how do you know Covil is not?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I've well I don't expect Covil is aware of that document. It was published in then 1930s.

Q. Why not?

A. Textbook. They just from what I've seen I would not expect that they would have that textbook.

Q. Why?

A. Just because of the SIESZ of the company and such that they didn't have a person they didn't have a safety person they didn't have an industrial hygienist. They didn't have.

Q. Well they had Mr. Johnson?

A. Those resources. He's a safety that was a collateral job for him.

Q. What was his main job?

A. His main job was fieldwork of the

insulation, insulation out in plans.

Q. Do you know if SFWRIL dust was available to Covil?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. It's been out of print. UM sure for a number of years. So I doubt if it was.

Q. EL with in then 1940s and 50s?

A. I don't think Covil or any other insulation company would have had that textbook.

Q. Well I'm not asking whether or not they physically had it do you know if it was available to them if they wanted it?

MR. WALL: Object to the form of the question.

THE WITNESS: Well, certainly today it would be more easily obtained but in that time I'd guess some libraries would have trouble tracking it down.

BY MR. CHAPMAN:

Q. Do you know if Covil?

A. It was not a main stream publication. It was written for a very small group of people and at that time in the 1930s industrial hygienists were probably if 1000 of them that would have been it.

Q. Do you know if Covil, sir, at that

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

point in time 1940s 50s and even 60s did anything to try to look for information like that not specifically dust dust but any information like that?

A. I don't know that they did SGH did Covil sir, and it makes sense to break it up by year I'm happy to do that did Covil have any sort 0 budget allocated for safety.

A. I saw one, one document that had some safety numbers in it.

Q. What year was that?

A. I don't recall right now.

Q. General decade?

A. It was broken out by their divisions and there were safety budget line items under actually it seemed to be expenses because it was cents were reported. So it wasn't a budget as much as its was actual expenditures.

Q. And do you know how much Covil was spending on safety safety?

A. I do not. I'd have to find that document again. And that was for just one year.

Q. Do you know if it was 70s 80s that that was?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I really don't know.

Q. So I know you said that Covil had doctors?

A. They work well they were doctors that worked for Covil as hired doctors. They didn't have a doctor on staff of course.

Q. Okay was there a permanent medical professional at any of Covil's facilities, not a permanent, no?

Q. Okay how would that work WHOUL they hire them to come in for certain days?

A. No they I don't know but they had physicians at the locations where their branches were to take care of medical issues that came up with the work force.

Q. So if someone got hurt would they call a doctor or would they just have a doctor come around generally?

A. That would depend upon the severity of the injury.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. I understand. I'm just trying to figure out generally sir, did Covil have any sort of you know even a nurse or a medical doctor or anybody on staff or that would come around regularly?

A. Not that I know of.

Q. At any point sir, did Covil hire its own industrial hygienist?

A. No they did not.

Q. Why not?

A. The size of the operation would in have warranted a full time industrial hygienist.

Q. Why what does the size of the ORPGS have to do with it?

A. You have to have a certain an I mount of people and a certain amount of revenue to hire your own private your own employee to be a professional in that capacity. Most companies that side in fact I'd say it would be RA IR to fine a company the size of Covil with 350 that would have an industrial hygienist.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Are you saying that Covil didn't have enough money the mire one?

A. That certainly would have been a -- yes that's a barrier.

Q. Sir, do you know if Covil ever did any air sampling in any of its father Selikoff RN Covil never did any air sampling. There was one facility the Duke 0 continue knee power plan where Mr. Covil Palmer Covil said some agency entity came in and did some sampling. He did not know

whether it was federal OSHA or state OSHA or what organization but he was sure it was a government O organization and there are no reports back to I the Covil or to the workers that we know of of the findings of those samples?

Q. Do you know, sir, if Covil, be it air samples or bulk sampling or whatever, do you know if Covil did any sort of testing in its plants or on its products at any point in time related to asbestos?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. I know Covil did not.
Q. Why not?
A. They weren't required to.
Q. How do they know they weren't required to?
A. They followed the federal register when it came out as far as asbestos sampling. Again the practice would be for a firm that size to not have someone conducting samples of that type I would say unless, unless there was a problem.
Q. I don't want to go around with you again like we did before. I'm not trying to retrace my steps here. But just to the extent it may be a little bit different did Covil consult

with a la UR or anything like that to try to figure out that they weren't required to do any sort of air sampling or testing or anything like that?
A. I don't know that they did.
Q. Then it was are you telling me that it

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

was just tear reading 0 the federal regulation that they didn't have to do that?

A. When they became aware of me federal regulation they knew that they had responsibility to do those things.

Q. But not air sampling or testing?

A. No they didn't do any air sampling or testing.

Q. Okay and I guess what I'm trying to get at is how did they know that wasn't their responsibility, I'm not sure?

Q. When OSHA came out in 1972 sir, did Covil have any sort of training on on or about other for its employees?

A. At the time it came out I didn't see any record of that. But of course afterWARZ that's when they started training with the NOOIK guidelines.

Q. Okay and you don't have any

information about weekly meetings toolbox meetings

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

anything like that?

A. I do not not at this time.

Q. Do you know sir, if Covil provided masts or respirators to its employees?

A. They did.

Q. Starting when?

A. Actually in the 50s for the fabrication shop because some of the materials they were handling they required going LG and respirator SDLS what materials were they handling.

A. They had foam glass I think was a corning product and that was one that they were KESHedded about and they I think they actually had an eye injury from that so they used it there. They started using a smaller resident a respirator that was not a full not a half face piece it was a quarter face piece then they started using a half face piece with the dual can centers. They got information from I think NOOIK on what respirator they should be using and they purchased large KWANs of them.

Q. So if they got it from NOOIK that didn't happen until the mid 7 OTs?

A. I'm not sure. I think they had them

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

on before that. Somehow they became aware that U.S. bureau of mines was testing respirators and also NIOSH. I think I saw something related to respirators should be U S B and NIOSH. That's why they felt that the initial respirator they used was not sufficient and they went to look more protectiver respirators.

Q. Was there any point in time, sir, where they required respirators?

A. I don't remember seeing anything where it said that they would have they were required for all jobs but I do think that there were some operations when they were using asbestos that they were told to wear them and they were in and the suches and foremen would get on them when they didn't wear the respirators.

Q. Okay so a couple of things in there what kind of jobs were they required on?

A. I'd have to look again.

Q. Sitting here today you don't know?

A. I don't.

Q. Okay and you said such and foremen

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

would get on to them if they weren't what do you mean by that?

A. They were the ones who is would

counsel them, correct them about not wearing a respirator.

Q. Do you have any documents that show that an employee was corrected or rep manned for not wearing a respirator?

A. I do not.

Q. How do you know that happened?

A. I assume it did, but there was you know I just assuming that they would caution the about it and sump I don't know that they have.

Q. All right I don't want you to assume anything?

A. Okay.

Q. So without assuming do you know that that happened?

A. No I don't.

Q. All right. Sir, outside of your CI H

do you have any board certifications?

A. No I'm board certified in CI H and I'm a fellow of the American industrial hygienist association.

Q. All right and I said that being in a deposition you have testified before the EPA or no?

A. Not testified I have submitted

comment.

Q. Okay how many times have you done that?

A. I may have done some while at the trade association probably did so maybe two or three times.

Q. You ever testified before OSHA?

A. Yes.

Q. How many times?

A. Gosh, probably four R four to five.

Q. And what were they kind of the topics about?

A. I testified on the asbestos hearing in

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

1990. I testified for many SHA or coal mine dust. I sent comments to NIOSH on their asbestos road map. There's one other OSHA I can't think of it right now asbestos standard and might have been on respirators.

Q. The asbestos hearing in 1990 what was your position there?

A. At that time I was president of the national industrial sand association.

Q. Okay and I guess I asked a bad question what was your what did you testify to? What was the topic of your testimony?

A. I was testifying for a sister association that we co-manage with called national aggregates association and I was testifying about asbestos and again about the issue relating to asbestos form and nonasbestos form am any boles and chrysotile okay have you done sir, any original reer son asbestos.

A. No I don't think I have any

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

publications specific to asbestos.

Q. Have you conducted or spaded in any studies related to asbestos?

A. Well I directed a number of studies asbestos when I was with NIOSH talking to NIOSH of course not Covil but yes, I directed a lot of research on asbestos.

Q. How many different studs would you be able to tell me?

A. It would be a lot, animal ex pieration and epidemiological STUs. A great yeah there are RA number lo for any studs that you have done related to asbestos sir, did you receive any funding from that from either the coalition the coalition we talk about earlier or corporations.

A. No not any research not any you know I wrote those papers just based on literature

research. Not independent research.

Q. Okay and that was funded by the coalition?

A. Coalition was yes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. Your independent studies did you receive brans for know? How were they FUBed?

A. They were funded by industry. These are sill co-sister studs mainly. The there are three of them.

Q. And you mean bring industry what do you mean by that?

A. Well they are trade associations now that's talking about after I left NIOSH, the NIOSH STUs of course were funded by the federal government.

Q. Would you tell measure what trade associations RN yes national industrial an association, I didn't do that study -- well, that study was done by other outside investigators. But we were doing one in well we did do an any a STAUD did industrial an that was a radiographic study not a mortality study. And we did a radiographic STU SDI at very money grant it workers and we did a radiographic studies of crushed stone aggregate workers?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

Q. I believe you said it was last year at the beginning of this deposition when you testified on behalf of Pfizer in a talc case?

A. Yes.

Q. That was in federal court in Ohio?

A. No the federal court was the is the water pollution case dealing with the persistent chemical in the water.

Q. Okay where was the Pfizer testimony?

A. The Pfizer testimony was I gave the depositions unAsheville, North Carolina actually I believe. And it was in cases related to mesotheliomas.

Q. Okay and do you remember the names of the plaintiffs in that case?

A. I don't right offhand. I'd have to look.

Q. Do you keep an excuse me a list of you testimony or anything like that?

A. For some of it I do. If I get it back to read over I usually will keep that.

Q. And how long is that list?

A. It's not long. I've only I've only had about four or five EPGSs.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

25 Q. Okay what kind of information is on

1 that list?
2 A. The testimony I gave?
3 Q. In terms of are parties on there? Are
4 plaintiff's names on there?
5 A. Yeah and of course I also wrote expert
6 reports and the captions are on there, yes.
7 Q. Okay all right.
8 A. It's just I've got a poor memory it
9 comes with age.
10 Q. Okay?
11 MR. CHAPMAN: Okay mark we would
12 request that list.
13 THE WITNESS: Of depositions?
14 BY MR. CHAPMAN:
15 Q. Yes?
16 MR. WALL: This is not an expert
17 witness this is a fact witness.
18 MR. CHAPMAN: Are you saying you're not
19 going to give me that.
20 MR. WALL: Think about it but I'm

because it's not an expert witness I do not think I'm required to turn it over to you I'll have to think about whether I will give it to you.

MR. CHAPMAN: I think it directly goes to bias but if you in the talk about it some more

my request is on the record.

MR. WALL: I know and my response is on the record at the moment.

BY MR. CHAPMAN:

Q. Do all right do you remember, sir, what your opinion was in that Pfizer case?

A. It actually had to do again with the nomenclature of asbestos and nonasbestos form minerals and some of the confusion that existed between the regulatory agencies, the medical community and scientists and industry. It was essentially you know, what are we calling TIS beast and why and what is correct and what is not correct.

Q. And what is not correct?

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

A. It's not correct to assume that nonasbestos form minerals cause any of the asbestos related diseases.

Q. Okay and in your opinion what are the asbestos form minerals?

MR. WALL: Objection OUN side scope.

THE WITNESS: I'm sorry what.

BY MR. CHAPMAN:

Q. I said in your opinion what are the asbestos form minerals?

A. Well they occur which's six of them that can occur in an an asbestos form habit and those that's chrysotile, am site, KRE sit light a tin light and anthophyllite light and the more the preponderance of those minerals will occur vast preponderance will occur as nonasbestos form minerals. Asbestos is a rather rare occurrence in geology. If you've got five, three, four percent BAEGS in a bore that's a reserve that you could you could mine for commercial asbestos and other host rock in there is likely to be nonasbestos

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

form.

Q. Do you believe sir, that exposure to asbestos any move the different types increases individual's risk of developing disease?

MR. WALL: Objection outside the scope.

THE WITNESS: To asbestos when I say asbestos I'm talking about asbestos form HAKT of asbestos. Yes it increases the risk of disease.

BY MR. CHAPMAN:

Q. Does that include all six types?

A. There is a potency factor to them.

Q. Okay and do you use the one to 100 to 500 or what is your potency factor?

MR. WALL: October outside the scope.

THE WITNESS: No I go by HOB son DAR ton and Doug little and I don't know those numbers right off but it's quite dramatic. You know the amphiboles Christmas trim light and anthophyllite not so much because it's thicker fiber but certainly those have tremendous or have

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

mesotheliogenic potential. With chrysotile it very well could be the trim light contamination increase.

BY MR. CHAPMAN:

Q. Do you believe sir, that all commercial chrysotile asbestos in the U.S. is contaminated bids trim light?

MR. WALL: Objection outside these scope.

THE WITNESS: I don't know about all but there was some probably trim light fibers in much of the chrysotile that came from Canada.

BY MR. CHAPMAN:

Q. Do you know sir, of any sources of chrysotile that are not contaminated by trim light?

MR. WALL: Objection outside the scope.

THE WITNESS: There are some again I haven't reads that literature in a while but I

think there REES some BRAZ ill January chrysotile that does not have the same properties of

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429

contamination.
BY MR. CHAPMAN:
Q. Okay. Sir, do you belief that there is to any particular fiber type a safe level of exposure to asbestos?
MR. WALL: Objection outside scope.
THE WITNESS: Yes I think there is.
BY MR. CHAPMAN:
Q. And what is that?
A. I don't know but I'm just saying based on biology everything has its dose further toxicology per sills have told us the dose of poison only the dose differentiates the poison from a remedy so everything is DANG US at some level.
Q. I understand you have not been tendered as an expert in this case I get that?
A. I don't know it seems we are getting into more of that than we are Celeanese plan.
Q. I get that this is the information you have and you don't have information about Celeanese so I want to know what you know.
A. Yes.

ELECTRONICALLY FILED - 2018 Jul 10 1:07 PM - SPARTANBURG - COMMON PLEAS - CASE#2017CP4204429